



**CITY ZONING COMMISSION**  
**AGENDA-Tuesday, April 4, 2017, 4:30 p.m.**  
**Miller Building, 1st Floor Conference Room**  
**2825 3rd Avenue North, Billings, Montana**

NOTICE TO THE PUBLIC

Public Comment:

There will be a Public Comment Section as noted on the agenda. This is the time members of the public may comment on any item not appearing on the agenda. Under State law, matters presented under this section cannot be discussed or acted upon by the Zoning Commission during this time. For items appearing on the agenda, the public will be invited to make comments at the appropriate time. It is very important to speak clearly, and state your name and address for the record. Please limit your comments to three (3) minutes or less.

**Call the meeting to order.**

**Introduction of City Zoning Commission Members and Planning Department Staff.**

**Public Comment**

**Motion. Approval of Minutes: January 3, 2017**

**Disclosure of any Conflict of Interest-Members of the Commission and Staff**

**Disclosure of an Outside (Ex Parte Communication)-Members of the Commission and Staff**  
**a. The Exparté Communication Binder is available at the Sign-In and Agenda Station.**

**Regular Business:**

- A. Opening of public hearings.
- B. Reading of rules for the procedure by which the public hearings will be conducted.
- C. Reading of notices of the public hearings on the following items:

**Public Hearings:**

- a. **Return Item - City Special Review 953 – 4135 Grand Avenue – Wireless Communication Facility** – A special review request (27-620(d)1.) to allow an 80-foot monopole and wireless communication facility in a Residential 9,600 zone on a church property legally described as C/S 1876, Tract 3A1, a 1.844 acre parcel of land generally located at 4135 Grand Avenue. Tax ID: D04742  
Presented by Nicole Cromwell, Zoning Coordinator
  
- b. **Return Item - City Special Review 954 – 3042 King Avenue West – All Beverage License gaming restricted** – A special review request to locate an all-beverage liquor license (gaming restricted) in an existing 6,509 square foot building – Johnny Carino’s – on Lot 3A-1 of Studer Acreage Tracts Subdivision, in a Controlled Industrial (CI) zone, on a 1.17 acre parcel of land generally located at 3042 King Avenue West. Tax ID: C14763 Presented by Nicole Cromwell, Zoning Coordinator
  
- c. **City Zone Change 955 – 301 - 317 Covert Lane and 1739 – 1747 Cody Dr** – A zone change request from Residential 7,000 (R-70) to Residential 6,000 (R-60) on Lots 5, 6, 7 & 8, Block 7, Happy Hollow Subdivision, a 1.36 acre parcel of land. A pre-application neighborhood meeting was held on February 23, 2017 at Oasis Water Park. A concurrent special review has been submitted. Tax IDs: C00404A, C00404B, & C00404C. Presented by Nicole Cromwell, Zoning Coordinator
  
- d. **City Zone Change 954 – 5400 Laurel Rd** – A zone change request from Residential 7,000 (R-70) to Community Commercial (CC) on portion of Lot1A and all of Lot 2, Block 3, Streeter Brothers Subdivision, a 15,000 square foot parcel of land. A pre-application neighborhood meeting was held on February 27, 2017 at GM Petroleum at 275 Daniel Street. Presented by Dave Green, Planner II
  
- e. **City Special Review 955 – 301 - 317 Covert Lane and 1739 – 1747 Cody Dr – Three 10-unit apartment buildings** – A special review request to demolish three, 4-plex apartments and construct three, 10-unit apartment buildings in a proposed R-60 zone, on Lots 5, 6, 7 & 8, Block 7, Happy Hollow Subdivision, a 1.36 acre parcel of land. Presented by Nicole Cromwell, Zoning Coordinator.

## **Other Business/Announcements**

## **Adjournment**

**The City Council** has designated **Monday, April 24, 2017**, at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the zone changes and special reviews.

Before taking any action on an application for a **zone change**, the City Council shall first consider the findings and recommendations of the City Zoning Commission. In no case shall the City Council approve a zone change other than the one advertised. The City Council shall take one of the following actions on the zone change requests: 1) approve the application; 2) deny the application; 3) allow withdrawal of the application; or 4) delay the application for a period not to exceed thirty (30) days.

As provided in Montana Code Annotated, Section 76-2-305(2), in the event of a protest petition against such **zone change** signed by the owners of twenty-five (25) percent or more of: (1) the area of the lots

included in any proposed change; or (2) those lots or units, as defined in MCA 70-23-102, **one hundred fifty (150) feet from a lot included in a proposed change**, such proposed amendment shall not become effective except by the favorable vote of two-thirds ( 2/3) of the present and voting members of the city council. For purposes of this protest provision interest in the common elements of the condominium, as expressed in the declaration, included in the calculation of the protest. If the property, as defined in 70-23-102, spans more than one lot, the percentage of the unit owner's undivided interest in the common elements must be multiplied by the total number of lots upon which the property is located. The percentage of the unit owner's undivided interest must be certified as correct by the unit owner seeking to protest a change or by the presiding officer of the association of unit owners. The protest petition must be received in the Planning Division office by 5:00 p.m. on the Friday preceding (April 21, 2017) the first reading of the amendment by the City Council.

Before taking any action on an application for a **special review use**, the City Council shall first consider the findings and recommendations of the City Zoning Commission. In no case shall the City Council approve a special review use other than the one advertised. The City Council shall take one of the following actions on these Special Review requests: 1) approve the application; 2) conditionally approve the application; 3) deny the application; 4) allow withdrawal of the application; or 5) delay the application for a period not to exceed thirty (30) days.

The Zoning Commission and City Council will hear all persons wishing to speak relative to the proposed zone changes and special reviews. Testimony regarding the above mentioned items may also be submitted in writing to the Planning Division, 2825 3<sup>rd</sup> Avenue North, 4<sup>th</sup> Floor, Miller Building, Billings, MT 59101 (247-8676) or to the Mayor and City Council, P.O. Box 1178, Billings, MT 59103.

Additional information on any of these items is available in the Planning and Community Services Office. Public hearings are accessible to individuals with physical disabilities. Special arrangements for participation in the public hearings by individuals with hearing, speech, or vision impairment may be made upon request at least three days prior to the hearing. Please notify Robbin Bartley, Administrative Assistant, at 247-8676 or e-mail to [bartleyr@ci.billings.mt.us](mailto:bartleyr@ci.billings.mt.us)

**City Zoning Commission**

**Meeting Date:** 04/04/2017

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**Information**

**Subject**

**Motion. Approval of Minutes: January 3, 2017**

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**Attachments**

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## City of Billings Zoning Commission Meeting Minutes January 3, 2017

The City of Billings Zoning Commission met on Tuesday, January 3, 2017 in the Miller Building 1<sup>st</sup> Floor Conference Room, 2825 3<sup>rd</sup> Avenue North, Billings, Montana.

Chairman Wagner called the meeting to order at 4:30 p.m. The City Council has designated **Monday January 23, 2017** at 6:30 p.m. in the City Council Chambers as the time and place to hear testimony for or against the zoning applications.

Commission and Staff		01/03/2017	02/07/2017	03/07/2017	04/04/2017	05/02/2017	06/06/2017	07/05/2017	08/01/2017	09/05/2017	10/03/2017	11/07/2017	12/05/2017
Dan Wagner	Chairman	1											
Dennis Ulvestad	Commissioner	1											
Mike Boyett	Vice Chairman	1											
Michael Larson	Commissioner	1											
James Mariska	Commissioner	1											
Wyeth Friday	Director, Planning & Community Services	-											
Vacant	Division Planning Manager	-											
Nicole Cromwell	Planner Zoning Coordinator	1											
Tammy Deines	Planning Clerk	-											
Dave Green	Planner II	-											
Karen Husman	Planner I	-											
Robbin Bartley	Administrative Support	1											

Total Number of 2016 Applications	01/03/2017	02/07/2017	03/07/2017	04/04/2017	05/02/2017	06/06/2017	07/05/2017	08/01/2017	09/05/2017	10/03/2017	11/07/2017	12/05/2017	TOTAL
Zone Change	2												2
Special Review	1												1

Chairman Wagner introduced the Planning Division Staff and Commission: Attending Staff were Nicole Cromwell, Zoning Coordinator; and Robbin Bartley, Administrative Support.

**In Attendance:** Robert Murry, Connie Nicely, Harley Damschen, Tom Roe, Randy Bjelkevig, Jenny McGahan, Gerald Klein, Kolten Knatterod, Charles Hamwey, Brian Gentry, Diane Svec, Erik Olson, Dayton Rush, Eric Nord

**Public Comment**

Chairman Wagner called for public comments. There were no public comments. Chairman Wagner closed the public comment portion of the meeting.

**Approval of Minutes: December 6, 2016**

Chairman Wagner called for approval of the December 6, 2016 meeting minutes.

**Motion**

Commissioner Boyett made a motion and Commissioner Larson seconded the motion to approve the December 6, 2016 meeting minutes.

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Dan Wagner	x			
Mike Boyett	x			
Dennis Ulvestad	x			
Mike Larson	x			
James Mariska	x			

**The motion for approval then carried with a unanimous voice vote 5-0.**

Chairman Wagner called for disclosures of conflict of interest. There were none.

**Disclosure of Conflict of Interest**

COMMISSIONER	Yes	No	ABSTAINED	ABSENT
Dan Wagner		x		
Mike Boyett		x		
Dennis Ulvestad		x		
Mike Larson		x		
James Mariska		x		

**Disclosure of Outside Communication** Staff advised an email was received from an adjacent home owner regarding Special Review 952. A copy of the email is in the Ex Parte notebook.

<b>COMMISSIONER</b>	<b>Yes</b>	<b>No</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Dan Wagner		<b>x</b>		
Mike Boyett		<b>x</b>		
Dennis Ulvestad		<b>x</b>		
Mike Larson		<b>x</b>		
James Mariska		<b>x</b>		

**Public Hearings:**

Chairman Wagner reviewed the rules and the procedures by which the City Zoning Commission public hearings are conducted and advised the audience that this would be heard by the City Council on January 23, 2017. He then asked Nicole Cromwell to review the first agenda item.

Nicole Cromwell corrected the City Council meeting date found on the second page of the Agenda from January 9, 2017 to January 23, 2017.

Nicole Cromwell presented:

**City Zone Change 952 – 1236 & 1240 Avenue D** – A zone change request from Residential 7,000 (R-70) to Residential 6,000 (R-60) on Lot 10A, Block 5 of Curtis Subdivision 3<sup>rd</sup> Filing, a 23,800 square foot parcel of land. A pre-application neighborhood meeting was held at Territorial Landworks, 3333 2<sup>nd</sup> Ave North on November 11, 2016. Tax ID: A05929

**RECOMMENDATION**

Planning Staff recommends approval and adoption of the proposed findings of the 10 criteria for Zone Change 952.

**Questions for Staff:**

NONE

Chairman Wagner asked for the applicant of **City Zone Change 952**.

**Kolton Knatterod, Territorial Landworks, agent**

Mr. Knatterod stated the owner has no plans to add density, he is only wishing to improve the property and get financing. This concern was expressed at the neighborhood meeting.

Commissioner Larson asked if there were any other concerns at the neighborhood meeting. He replied the other concern is the alley condition. It is currently in poor condition and the owner was asked if he intended to improve it. The owners informed the attendees of his intent to pave the now

gravel parking area. The parking situation should improve. The parking garages are currently being used for storage. Under the new ownership they will be used for parking.

Commissioner Ulvestad asked what is the time frame for improvements? He is not sure but assumes as soon as possible.

**Opposed**

NONE

Chairman Wagner asked for a motion.

Commissioner Larson made a motion and Commissioner Ulvestad seconded the motion to approve **City Zone Change 952.**

<b>Commissioner</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Dan Wagner	x			
Mike Boyett	x			
Dennis Ulvestad	x			
Mike Larson	x			
James Mariska	x			

**The motion carried with a unanimous verbal vote of 5-0.**

Nicole Cromwell presenting:

**City Zone Change 953 – 940 and 950 Yellowstone River Road** – A zone change request from Residential 7,000 (R-70) to Community Commercial (CC) on Tract 14, C/S 4 (Brittain Acres), a 2.12 acre parcel of land. A pre-application neighborhood meeting was held at Country Inn and Suites, 231 Main Street on November 14, 2016. Tax ID: C00175

**RECOMMENDATION**

The Planning staff recommends denial and adoption of the findings of the 10 criteria.

**Questions for Staff:**

None

Chairman Wagner asked for the applicant of **City Zone Change 953.**

**Eric Nord, Agent, Crist, Krogh & Nord**

Mr. Klein, the owner, is present. He believes this information has been misrepresented. The storage facility is owned by an LLC. The mobile court has been sold and is not owned by the LLC. It was never intended that the storage facility would only be used by the manufactured home residents. It has always been used by third parties. He then addressed the 10 criteria. The Kiwanis Bike Trail is crossed over to access this facility. There are three public roads that cross this same

trail with much higher trail volume. The impact of the storage facility is nil. The planning staff is looking at this as a hypothetical future situation.

There is no evidence that the usage of this facility has effected the neighborhood negatively. The Neighborhood Task Force has not expressed an objection. We respectfully ask that the Commission grant this.

Commissioner Larson asked that the issue of future usage be addressed. The Community Commercial zoning could be used for many things and his concern is it would be changed. The owner is willing to put a deed restriction on this property that runs with the land to maintain its usage in the future as a storage facility.

Commissioner Ulvestad asked staff about a conditional approval for a zone change. Conditional approval is not an option.

Commissioner Boyett asked if there is any other type of zoning that would work for the applicant. Staff replied that the 2000 Block of Broadwater a Planned Unit Development was used in that case. A deed restriction runs with the land. The city's only participation would be is if they were a party to that covenant.

Chairman Wagner asked if the restriction could be removed under certain circumstances. If the original owner who placed the restriction agreed, that may be possible.

Commissioner Mariska addressed the LLC as the original owner. Mr. Nord answered the LLC legalities.

Commissioner Larson addressed the spot zoning that was mentioned. What is your response to that issue. Mr. Nord does not believe it meets the criteria for spot zoning. His understanding is that applies to new construction.

**Randy Bjelkevig, 1294 Yellowstone #3**

Mr. Bjelkevig is concerned about the property usage if the zone change is not granted.

**Tom Roe, Downtown Realty, 929 Ave C**

Mr. Roe believes because the storage facility exists and has been operational without issue for many years, the zone change should be approved.

**Gerald Klein, owner**

The mobile court traffic that crosses the Kiwanis trail is heavier by far than any usage by the storage facility. This facility is mainly for RV's and boats and it accommodates the mobile home court.

He is dealing with the unfinished business of his deceased father. He wants to retire, and needs the zone change. He is willing to implement any kind of covenant to insure the future property use is only a storage facility.

**Opposed**  
NONE

Commissioner Larson made a motion for approval of **Zone Change 953**. These should be presented in a positive light. He agrees with the spot zoning argument. He would like the City Council to consider a Deed Restriction or the like in a positive light. There are no current issues with use and staff is concerned with the future usage. Commissioner Boyett seconded the motion to approve **City Zone Change 953**.

**Discussion**

Commissioner Boyett agrees that it should be what it has been.  
Commissioner Mariska wishes it had not changed ownership to an LLC.  
Commissioner Ulvestad agrees to move forward based on Commissioner Larson’s recommendation.

<b>Commissioner</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Dan Wagner	x			
Mike Boyett	x			
Dennis Ulvestad	x			
Mike Larson	x			
James Mariska	x			

**The motion carried with a unanimous verbal vote of 5-0.**

Nicole Cromwell Presenting:

**City Special Review 952 – 54<sup>th</sup> St West & Grand Avenue** – A special review request to locate a drive through service for a pharmacy adjacent to a residential zone in a proposed 57,000 square foot building, in a Community Commercial (CC) zone, on Lot 1, Block 1, Bishop Fox Subdivision, an 8.197 acre parcel of land. Tax ID: A33007.

**RECOMMENDATION**

Planning staff recommends conditional approval and adoption of the findings of the 3 criteria for **Special Review 952**.

**Questions for Staff:**

Commissioner Larson confirmed there is no vehicular access to the adjacent neighborhoods from this retail parking lot and no short cuts. Staff agreed and explained the special review is only for the drive thru.

Commissioner Boyett asked why is there a pedestrian path, is this something new. Yes, it is new and the path is meant to connect to the neighborhood for pedestrian access.

Commissioner Boyett asked what is the footage from the 6 foot fence to the building. It is 80 feet at minimum.

Commissioner Mariska confirmed the Commission is reviewing this only because of the drive up? What is the objection. The code has a provision that states any drive thru service except a fueling station, that is adjacent or across an alley from a residential area must go thru the Special Review process.

Commissioner Larson talked about the shortcut issue at the Rehberg and Grand Albertsons. Commissioner Mariska stated the city facility/Fire Department is a City Police Department as well, what is the impact. The access off of Grand has no traffic control. Staff explained the possible development plan for Grand Ave in this area. Commissioner Mariska asked about bicycle staples, is it a recommendation or a requirement. Staff explained the condition requirement is because it is a Special Review.

Staff addressed neighborhood questions regarding lights and an SID.

Chairman Wagner asked for the applicant of **City Special Review 952**.

**Dayton Rush, CTA, agent**

Commissioner Larson confirmed this is a drive up for a pharmacy? No traffic counts have been done yet.

**Charlie Hemway, Agent for Bishop Fox**

He is very confident in the design and the City Engineering department, making this a workable project.

**Opposed**

**Connie Nicely, 1526 Silver Run Trail, Billings, MT**

She is concerned with security issues, her front door looks right into the area. The fence and walkway will allow people to be hidden from view. Why does the drive up have to be on the residential side? A gas station will be built next.

Commissioner Larson stated this has been zoned Community Commercial for a long time. He asked if she was aware of the zoning when you bought your home? She adamantly does not want the walk path fearing that unsavory citizens will have access to her home.

**Jenny McGahan, 1548 Silver Run Trail, Billings, MT**

She shares the same concern with the walking path. She would feel more comfortable with a protective barrier rather than a fence that could be crossed. She has safety concerns. Is there more information on the fence. She would like to see the drive up moved to the other side of the store. Traffic and noise is a concern, she lives very close.

**Rebuttal**

Dayton Rush described the intended fence and material. The landscaping meets all Code requirements.

Chairman Wagner asked if there will there be grass that is irrigated in the buffer zone.

Chairman Wagner asked for a motion.

Commissioner Ulvestad made a motion and Commissioner Larson seconded the motion to approve **City Special Review 952.**

**Discussion**

Commissioner Larson comments on the walkway and the access to the retail area. He feels this is a positive feature. Chairman Wagner is impressed with the landscaping and width of the buffer.

<b>Commissioner</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAINED</b>	<b>ABSENT</b>
Dan Wagner	x			
Mike Boyett	x			
Dennis Ulvestad	x			
Mike Larson	x			
James Mariska	x			

**The motion carried with a unanimous verbal vote of 5-0.**

**Other Business:**

**The February 7, 2017 has been cancelled due to lack of applications.**

**Adjournment:** The meeting adjourned at **6:05 p.m.**

**DRAFT:** To be approved by a motion: **March 7, 2017.**

**ATTEST:**

**Robbin Bartley, Administrative Assistant I**



## City Zoning Commission

**Meeting Date:** 04/04/2017

**SUBJECT:** Special Review 953 - Wireless Facility - 4135 Grand Avenue

**THROUGH:** Nicole Cromwell

**PRESENTED BY:** Nicole Cromwell

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### Information

#### REQUEST

**Return Item - City Special Review 953 – 4135 Grand Avenue – Wireless Communication Facility** – A special review request (27-620(d)1.) to allow an 80-foot monopole and wireless communication facility in a Residential 9,600 zone on a church property legally described as C/S 1876, Tract 3A1, a 1.844 acre parcel of land generally located at 4135 Grand Avenue. Tax ID: D04742

Presented by Nicole Cromwell, Zoning Coordinator

#### RECOMMENDATION

Planning staff recommends conditional approval and adoption of the findings of the 3 criteria.

#### APPLICATION DATA

OWNER: King of Glory Lutheran Church

AGENT: Kevin Howell, Digital Skylines

LEGAL DESCRIPTION: C/S 1876, Tract 3A1

ADDRESS: 4135 Grand Avenue

CURRENT ZONING: R-96

EXISTING LAND USE: Vacant with utility infrastructure

PROPOSED USE: Same with 80-foot monopole and ground facilities

SIZE OF PARCEL: 1.84 acres

#### CONCURRENT APPLICATIONS

None.

#### APPLICABLE ZONING HISTORY

**Subject Property** - The King of Glory Church received a special review approval in 2008 to expand the building. The property was annexed in 2004.

**Surrounding Property** - A special review request in 2000 to locate a 120-foot wireless facility at the sub-station located on Tract 4B of C/S 1876 (north west of subject property) was denied by the County Commissioners. At the time, the BOCC the 120-foot tower would be too intrusive on the adjacent residential uses.

#### SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-96  
Land Use: King of Glory Church

SOUTH: Zoning: A-1  
Land Use: Agricultural uses

EAST: Zoning: CC  
Land Use: New LP Anderson Tire Shop

WEST: Zoning: R-96  
Land Use: Low density residential homes

## BACKGROUND

This is a special review request to construct a new wireless facility on property owned by the King of Glory Lutheran Church at 4135 Grand Avenue. The proposed mono-pole tower will be 80 feet in height and there will be an equipment shelter on the leased ground around the tower. The lease area is in the southwest corner of the property and is 25 feet by 50 feet (1,250 square feet total). Northwestern Energy maintains significant over head power lines in the area connecting to the substation to the north west (1565 43rd St West). There are no wireless antennae support facilities over 50 feet in height within 1 mile of the proposed location. The applicant, Digital Skylines on behalf of Verizon Wireless, states the ability to serve this growing area of Billings is tenuous. The need for the new facility is to ensure reliability of service in the future and to increase capacity.

Grand Avenue is a principal arterial street with a growing traffic demand. It currently handles over 10,000 vehicle trips per day. New subdivisions, a new grocery store at 54th St West and a new middle school at 56th St West and Grand Avenue will add to the traffic in the area. New multi-family apartments are under construction at 41st St West just north of the church. The applicant states many residents are eliminating their land line phones and using only wireless service for phone service. This is increasing demand on existing capacity. Residents without land lines in their homes will only be able to contact emergency services using their wireless devices. Reduced capacity in the wireless network could impact public safety services.

There are no nearby residential structures. The tower will be located at the proper setback from the west property line - 40 feet. Towers located adjacent to residential zones must be setback at least 1/2 height of the tower. The power line poles along the front of Grand Avenue are 70 feet tall. The power lines turn north at the west edge of the subject property. The proposed wireless support structure will be 10 feet taller than these power poles and will not impinge on the existing view-shed of this area on Grand Avenue. The ground equipment shelter will be about 10 feet by 16 feet. A vinyl privacy fence is proposed to surround the leased area. Due to its location on a high visibility transportation corridor, the Planning staff will be recommending a different type of security wall as one of its conditions.

The Planning staff has reviewed the proposed location for the wireless antennae support structure and ground facilities and is recommending conditional approval. Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria: 1) The application complies with all parts of the Unified Zoning Regulations, 2) The application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2016 Growth Policy, and 3) the application is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts.

This application conforms to the first criteria in so far that the zoning regulations adopted by the City Council have designated that any wireless facility that does not conform to certain provisions of Section 27-620 may apply for a special review. The property is not a school, government or government utility site where wireless facilities may be allowed by right. The proposed facility meets all the requirements of the zoning regulations except for the required landscaped hedge on the exterior of the security fencing. There is no water on the proposed location. The applicant is proposing instead a privacy fence. The Planning staff is proposing a different type of wall.

The application meets criteria from the second requirement as it is consistent with some of the objectives of the 2016 Growth Policy:

**Essential Investments:** Neighborhoods that are safe and attractive and provide essential services are much desired. The proposed special review will provide reliability to an essential service in West Billings neighborhoods. Many homes and even businesses are removing land line services and relying on wireless communications.

**Strong Neighborhoods:** Neighborhoods that are safe and attractive and provide essential services are much desired. The proposed special review will allow the applicant to remain outside of the denser residential areas to the north and west while still providing an essential service to those areas. This stretch of Grand Avenue is already visually compromised by the 70 foot tall power poles that run along the front and west side of this property.

The application also meets the third criteria in that it is compatible with surrounding land uses in the area. This site is in a transitional area of Billings, with residential uses to the north and west, agricultural uses to the south and

commercial services to the east. There are minimal impacts from the proposed use that need to be mitigated. The conditions recommended with the special review should mitigate impacts on the site and the surrounding properties.

## **PROPOSED CONDITIONS**

1. The special review is limited to the proposed 80-foot mono-pole, the ground equipment shelter and ancillary equipment necessary for the operation of the wireless facility on Tract 3A1 of C/S 1876 specifically on the proposed 1,250 square foot leased area as shown on the submitted site plan, generally located at 4135 Grand Avenue. No other use is intended or implied.
2. The mono-pole will be constructed of a matte-finish material.
3. The proposed 6-foot vinyl privacy fence shown on the site plan is not approved. This fence will be replaced by a wall with a 6-foot minimum height, constructed of concrete masonry units (CMU), with an engineered stone cladding or veneer on the exterior that resembles a stacked sandstone similar in color and tone to the natural sandstone rimrocks to the north and west. The sight-obscurer gates may be constructed of a complementary material and color to the stone veneer. The applicant will submit a detail sheet with the building permit drawings showing compliance with this requirement.
4. Any back-up generator on site will use "whisper quiet" technology so adjacent land uses are not disturbed.
5. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
6. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.

**\*\*NOTE\*\*** Approval of this Special Review does not constitute approval of a building permit, sign permit or fence permit. Compliance with all applicable local codes will be reviewed at the building permit level. This application is for a Special Review as noted above and no other request is being considered with this application. The Planning Division points out that the use and development of the property must be in accordance with the submitted site plan.

## **Zoning Commission Action**

The City Zoning Commission shall make a recommendation to the City Council to:

1. Deny the application for a special review use.
2. Grant the application for a special review use.
3. Conditionally grant the application for a special review use.
4. Delay action on the application for a period not to exceed thirty (30) days.
5. Give reasons for the recommendation.

Before recommending approval of a special review use, the Zoning Commission shall find that the contemplated use:

1. Complies with all requirements of this Article (27-1500);
2. Is consistent with the objectives and purposes of Chapter 27 and the Comprehensive Plan;
3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further the Zoning Commission shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Street and road capacity;
2. Ingress and egress to adjoining streets;
3. Off-street parking;
4. Fencing, screening and landscaping;
5. Building bulk and location;
6. Usable open space;
7. Signs and lighting; and/or
8. Noise, vibration, air pollution and similar environmental influences.

## **RECOMMENDATION**

Planning staff recommends conditional approval and adoption of the findings of the 3 criteria.

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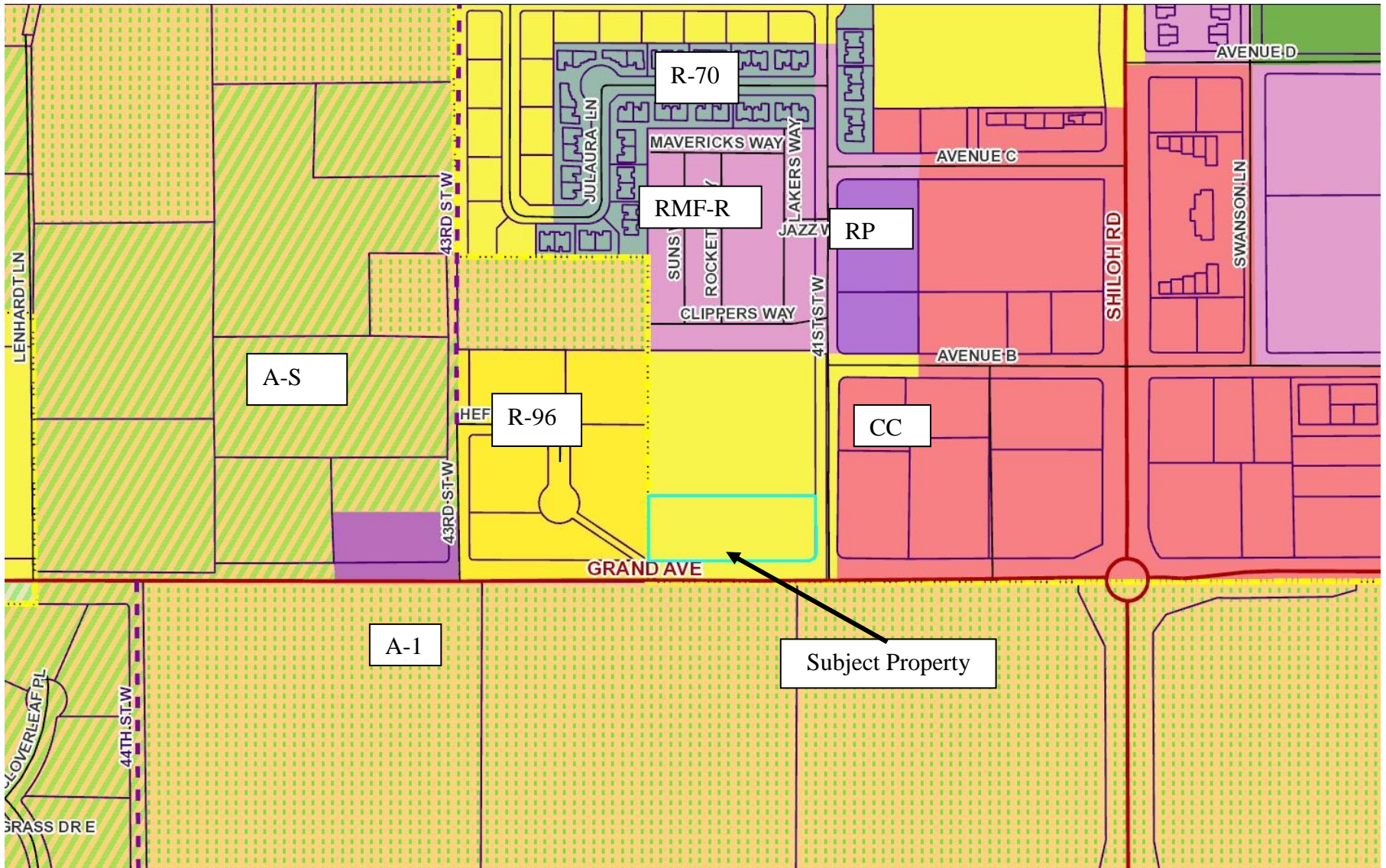
**Attachments**

Zoning Map and Site Photos

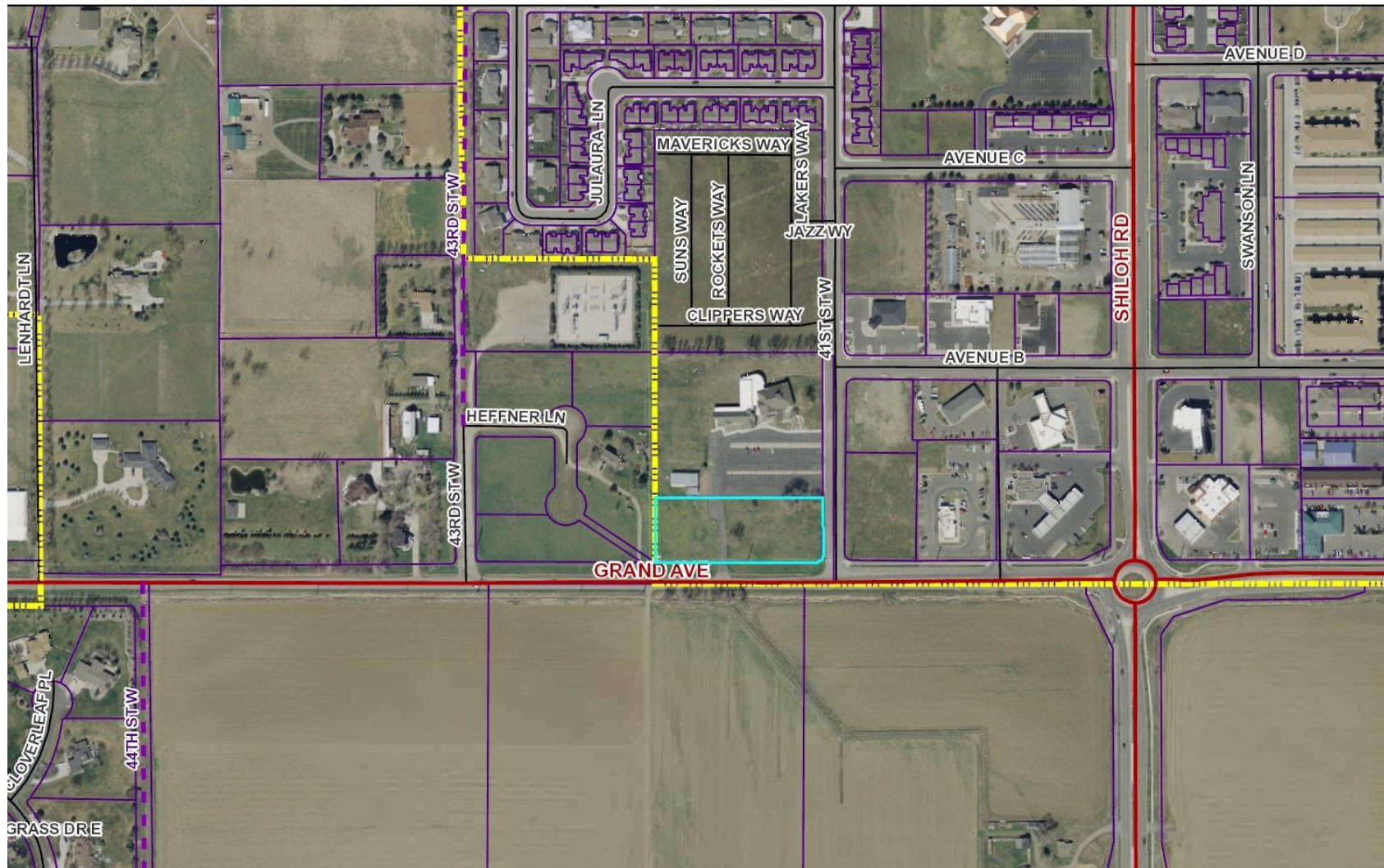
Application and site plans

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**Surrounding Zoning**  
Special Review #953 – 4135 Grand Avenue



# SR 953 - 4135 Grand





Subject Property – view west along Grand Avenue



View north at east driveway of church property



View west along Grand Avenue



View south across Grand Avenue



View east along Grand Avenue at 41<sup>st</sup> St West



Application and Site Plans  
Special Review #953 – 4135 Grand Avenue



January 16, 2017

Ms. Nicole Cromwell  
Planner II  
City of Billings  
210 North 27<sup>th</sup> Street  
Billings, MT 59101



RE: Special Review Application  
4125 Grand Avenue  
Billings, MT 59106  
Verizon Wireless Site BIL Zimmer

Dear Ms. Cromwell:

Attached is a City of Billings Special Review Application for property owned by King of Glory Lutheran Church and located at 4125 Grand Avenue in Billings, MT on which Verizon Wireless proposes to install a Wireless Communication Facility. The facility will consist of an 80 foot monopole with equipment cabinets located at the base of the pole in the southwest corner of the lot.

Verizon Wireless needs to increase its capacity in northwestern Billings. Installation of a new tower along Grand Avenue will increase capacity and coverage in the Billings area, and specifically the growing area surrounding this street.

Thank you for your cooperation and please call me if you have any questions regarding this request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kevin T. Howell".

Kevin T. Howell  
President, Digital Skylines, Inc.  
Representing Verizon Wireless



**City of Billings  
Special Review Application  
Grand Avenue / Verizon Wireless site BIL Zimmer**

Supplemental Information Enclosed:

1. Answer the following questions:
  - a. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?

The proposed Verizon Wireless facility is consistent with the goals and policies of the adopted Growth Policy in three ways:

    - i. Public health and safety and emergency service response are critical to the well-being of Billings' residents, businesses, and visitors – Today nearly half of homes have only wireless service and no landline. This means that they must rely on their wireless service to call 911 or make other emergency calls. As such, it is more important than ever that cities have strong and reliable wireless service.
    - ii. Neighborhoods that are safe and attractive and provide essential services are much desired – Home buyers are actively seeking neighborhoods with dependable and consistent wireless service. The lack of a strong signal can deter them from the area.
    - iii. Economic Development – Wireless coverage and capacity is a necessity in today's world. Consumers and businesses expect their phone and internet connection to work everywhere. This site is intended to serve northwestern Billings including the commercial businesses along Grand Avenue as well as the surrounding residential communities. In order to attract and keep businesses in the area, Billings must have accessible and reliable wireless service.
  - b. Why is there a need for the intended use of the property at this location?

Verizon Wireless has determined that the area between Grand Avenue and Rimrock Road around S 40<sup>th</sup> St is growing short on wireless capacity on the Verizon Wireless network. A lack of capacity will eventually block calls, delay emergency responses, and slow down wireless data rates.



According to the most recent national study, approximately one half of homes rely solely on wireless phones. This means that over two in every five homes are relying on wireless service to reach 911.

Full disclosure: Verizon Wireless is building a 4G LTE site, which means voice calls will be carried over their LTE network. This is a change and will require customers to have a device capable of advanced calling.

What is a 4G LTE site? A Verizon Wireless 4G LTE cell site uses the latest technology to carry both voice and data. Voice service is provided over VOLTE or Voice Over Long Term Evolution technology through a service Verizon Wireless calls Advanced Calling 1.0.

Advanced Calling offers high-definition or HD voice and video calling. To complete calls on this new cell site, customers' phones must be capable of Advanced Calling and that feature must be activated in the phone itself. Both customers on a call must be served by 4G LTE and have the Advanced Calling feature activated to experience HD voice and video service. Customers with older 1X, 3G or 4G devices without Advanced Calling will not experience a change in voice service.

- c. How will the public interest be served if this application is approved?

Verizon Wireless is the largest wireless carrier in the United States. The Verizon Wireless customers, including the City of Billings, rely on Verizon Wireless to continually invest in wireless infrastructure to prevent reduced functionality as the demand for wireless services (smartphones, tablets, etc.) increases. By locating this site immediately adjacent to 70' tall power lines, Verizon Wireless is not further disrupting the viewsheds. The views in this area are already compromised by the power lines.

- d. Prepare a written statement addressing what is intended to be done with the property, including new construction or change in the use of the property, and why the special review is being sought.

Verizon Wireless is proposing an 80' monopole in the southwestern corner of the lot owned by King of Glory Lutheran Church at 4135 Grand Avenue. A Special Review is required because the parcel is zoned R96.

View 1



Existing



**Bill Zimmer**  
THIS PHOTOSIM IS INTENDED TO BE  
AN APPROXIMATE VISUAL REPRESENTATION OF THIS PROJECT



View 1



Proposed

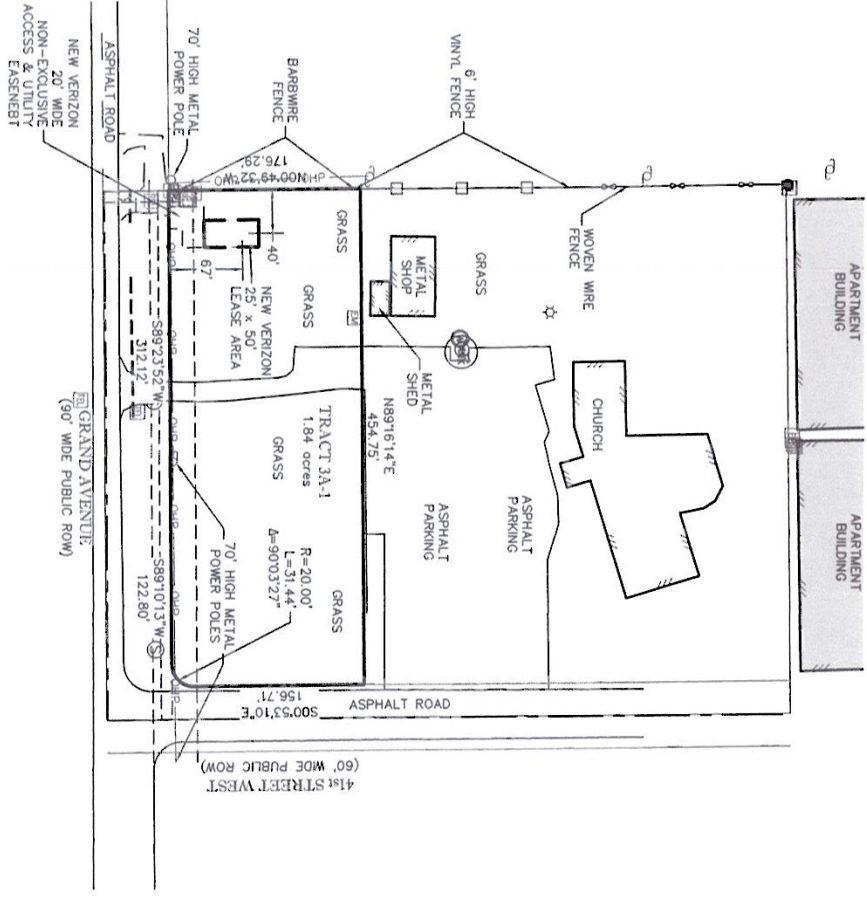
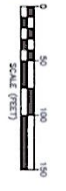


THIS PHOTOSIM IS INTENDED TO BE  
AN APPROXIMATE VISUAL REPRESENTATION OF THIS PROJECT

**BIL Zimmer**



**SITE PLAN**  
SCALE: 1" = 100'



DESIGNED FOR:



2720 BOZZMAN AVE  
HOLDEN, MONTANA 59801

DESIGNED BY:  
32 DISCOVERY DRIVE  
PO BOX 1000  
HOLDEN, MONTANA 59801  
PHONE (406) 382-2778  
FAX (406) 382-2778  
www.bozzman-engineering.com

Civil Engineering  
Geotechnical Engineering  
Land Surveying



ENGINEER APPROVAL:

REVISIONS	DESCRIPTION	DATE	BY	CHK
1	PRELIMINARY	11/25/10	BM	SD

THE INFORMATION IN THIS SET OF PLANS DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE OF ANY KIND. THE USER OF THESE PLANS SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND AUTHORITIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND AUTHORITIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND AUTHORITIES.

**SITE NAME:**  
BIL ZIMMER

**SITE ADDRESS:**

**SHEET TITLE:**

OVERALL SITE PLAN

**SHEET NUMBER:**

C-1

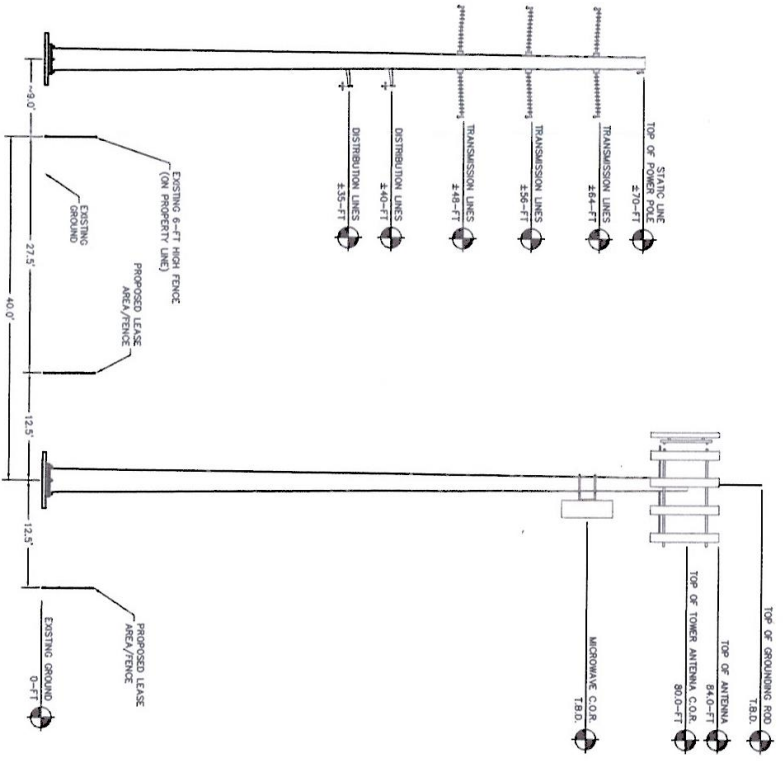
**ISSUED DATE:**

**TOWER HEIGHT NOTE:**  
 ALL TOWER ELEVATIONS ARE MEASURED FROM BOTTOM OF BASE PLATE TO TOP OF ANTENNA C.O.R. IS ABOVE GRADE.

**TOWER FINISH NOTE:**  
 THE TOWER SHALL HAVE A NON-REFLECTIVE GALVANIZED GRAY FINISH.

**KEY:**

C.O.R.	=	CENTER OF ROTATION
A.L.	=	ATTACHMENT LEVEL
B.T.	=	BOTTOM TP LEVEL
T.T.	=	TOP TP LEVEL
A.G.L.	=	ABOVE GRADE LEVEL
B.O.B.P.	=	BOTTOM OF BASE PLATE



DESIGNED BY:  
 2720 BOZZMAN AVE  
 HESLER, WORTHAM, SURELI

DESIGNED BY:  
 3100 COUNTRY CIRCLE  
 BOZZMAN, MT 59718  
 406.593.2729  
 www.allied-engineering.com



DESIGNED BY:  
 Civil Engineering  
 Geotechnical Engineering  
 Land Surveying

**REVISIONS:**

REV	DESCRIPTION	DATE	BY	CHK
A	PERMITS - NOT FOR CONSTRUCTION	11/29/16	LMG	LMG

**SITE NAME:**  
 BIL ZIMMER

**SITE ADDRESS:**

**SHEET TITLE:**  
 ELEVATIONS

**SHEET NUMBER:**  
 C-3

**SAVE DATE:**  
 11/29/16



## City Zoning Commission

**Meeting Date:** 04/04/2017

**SUBJECT:** Special Review 954 - 3042 King Ave West

**THROUGH:** Nicole Cromwell

**PRESENTED BY:** Nicole Cromwell

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### Information

#### REQUEST

**Return Item - City Special Review 954 – 3042 King Avenue West – All Beverage License gaming restricted –**  
A special review request to locate an all-beverage liquor license (gaming restricted) in an existing 6,509 square foot building – Johnny Carino’s – on Lot 3A-1 of Studer Acreage Tracts Subdivision, in a Controlled Industrial (CI) zone, on a 1.17 acre parcel of land generally located at 3042 King Avenue West. Tax ID: C14763 Presented by Nicole Cromwell, Zoning Coordinator

#### RECOMMENDATION

Planning Staff recommends conditional approval and adoption of the findings of the 3 criteria.

#### APPLICATION DATA

OWNER: Billings Properties, LLC

AGENT: Bob Pulley

LEGAL DESCRIPTION: Lot 3A-1, Studer Acreage Tracts Amended

ADDRESS: 3042 King Avenue West

CURRENT ZONING: CI

EXISTING LAND USE: Johnny Carino's Restaurant with beer & wine service with gaming

PROPOSED USE: New Mexican Restaurant with All-Beverage service without gaming

SIZE OF PARCEL: 1.17 acres - 6,509 square foot building

#### CONCURRENT APPLICATIONS

None.

#### APPLICABLE ZONING HISTORY

**Subject Property** - The property was annexed to the City in November 1989 and a special review (SR #757) for beer and wine service with gaming was conditionally approved in May 2004.

**Surrounding Property** - Several surrounding properties have been granted special reviews for on-premise alcohol service. The first was the Western Emporium at 3141 King Ave West in June 1991. Subsequent approvals were granted for Doc & Eddy's at 1251 S 32nd St West in 2005 and 2008. Town Pump at 3150 King Ave West was granted a special review for all beverage service with gaming in June 2005.

#### SURROUNDING LAND USE & ZONING

**NORTH:** Zoning: CC  
Land Use: Western Executive Inn and Western Emporium

**SOUTH:** Zoning: CI  
Land Use: Lexington Inn and Suites

**EAST:** Zoning: CI  
Land Use: Denny Menholt - auto sales and parking

## **BACKGROUND**

This is a special review request to locate an all beverage service without gaming in an existing restaurant building (formerly Johnny Carino's) located at 3042 King Avenue West. A previous special review was granted for a beer and wine service with gaming for the now closed Johnny Carino's restaurant. Johnny Carino's closed in December 2016. The proposed license is for a proposed Mexican restaurant in the same building. Interior remodeling will occur but there are no plans at this time to expand the building foot print or add a patio lounge area.

There are 3 other locations within the immediate area that have received approvals for liquor licenses with gaming attached and 1 location for a beer and wine service without gaming. Normally, an all beverage license always has gaming attached. When an all beverage license is "floated" into an area - example, from Butte to Billings or Helena to Billings - the gaming is removed from the license as required by state law. Gaming cannot be attached to this license now or in the future.

King Avenue West is a 5-lane principal arterial street with average daily traffic over 17,000 vehicle trips per day. There are traffic control signals at S 30th St West and S 32nd St West. Access to the property for west bound traffic is allowed at a median break with a dedicated left turn bay. This also provides access to Lexington Inn & Suites south of the subject property. For east bound traffic there are 2 drive approaches available. South 32nd St West is also a multi-lane principal arterial street that handles over 16,000 vehicle trips per day.

Planning staff has reviewed the proposed location and is recommending conditional approval and adoption of the findings of the 3 criteria. Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria: 1) The application complies with all parts of the Unified Zoning Regulations, 2) The application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2016 Growth Policy, and 3) the application is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts.

The application conforms to the first criteria in so far it complies with the zoning regulations an allowed use in the CI zoning district and the site is developed for the proposed use. The application complies with the second criteria and is supported by some of the goals and guidelines of the 2016 Growth Policy.

- **Prosperity:** A diversity of available jobs can ensure a strong Billings' economy. Successful businesses that provide local jobs benefit the community.

The proposed special review will support a new businesses, provide employment opportunities at this location, and benefit the community with needed local services.

The application also meets the third criteria in that it is compatible with surrounding land uses in the area. This site is in a developing area of Billings, with mainly commercial, retail and service businesses for the regional market. The site has a substantial investment in city infrastructure and improvements. The building is less than 15 years old and has a long service life. A new restaurant at this location will be convenient for guests in the nearby hotels as well as the Billings community. The conditions recommended with the special review should mitigate impacts on the site and the surrounding properties.

## **RECOMMENDATION**

The Planning staff recommends conditional approval.

## **PROPOSED CONDITIONS**

1. The special review approval is for the location of an all beverage license without gaming on Lot 3A-1 of Studer Acreage Tracts Subdivision Amended generally located at 3024 King Avenue West. No other use is intended or implied.
2. Any expansion of the gross floor area of the building or required parking greater than 10% will require an additional special review

approval.

3. The addition of an outdoor patio lounge will require an additional special review approval.
4. There shall be no outdoor public address system or outside announcement system, whether permanent or temporary, of any kind.
5. These conditions of special review approval shall run with the land described in this authorization and shall apply to all current and subsequent owners, operators, managers, lease holders, heirs and assigns.
6. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings regulations and ordinances that apply.

**\*\*NOTE\*\*** Approval of this Special Review does not constitute approval of a building permit, sign permit or fence permit. Compliance with all applicable local codes will be reviewed at the building permit level. This application is for a Special Review as noted above and no other request is being considered with this application. The Planning Division points out that the use and development of the property must be in accordance with the submitted site plan.

### **Zoning Commission Action**

The City Zoning Commission shall make a recommendation to the City Council to:

1. Deny the application for a special review use.
2. Grant the application for a special review use.
3. Conditionally grant the application for a special review use.
4. Delay action on the application for a period not to exceed thirty (30) days.
5. Give reasons for the recommendation.

Before recommending approval of a special review use, the Zoning Commission shall find that the contemplated use:

1. Complies with all requirements of this Article (27-1500);
2. Is consistent with the objectives and purposes of Chapter 27 and the Comprehensive Plan;
3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further the Zoning Commission shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Street and road capacity;
2. Ingress and egress to adjoining streets;
3. Off-street parking;
4. Fencing, screening and landscaping;
5. Building bulk and location;
6. Usable open space;
7. Signs and lighting; and/or
8. Noise, vibration, air pollution and similar environmental influences.

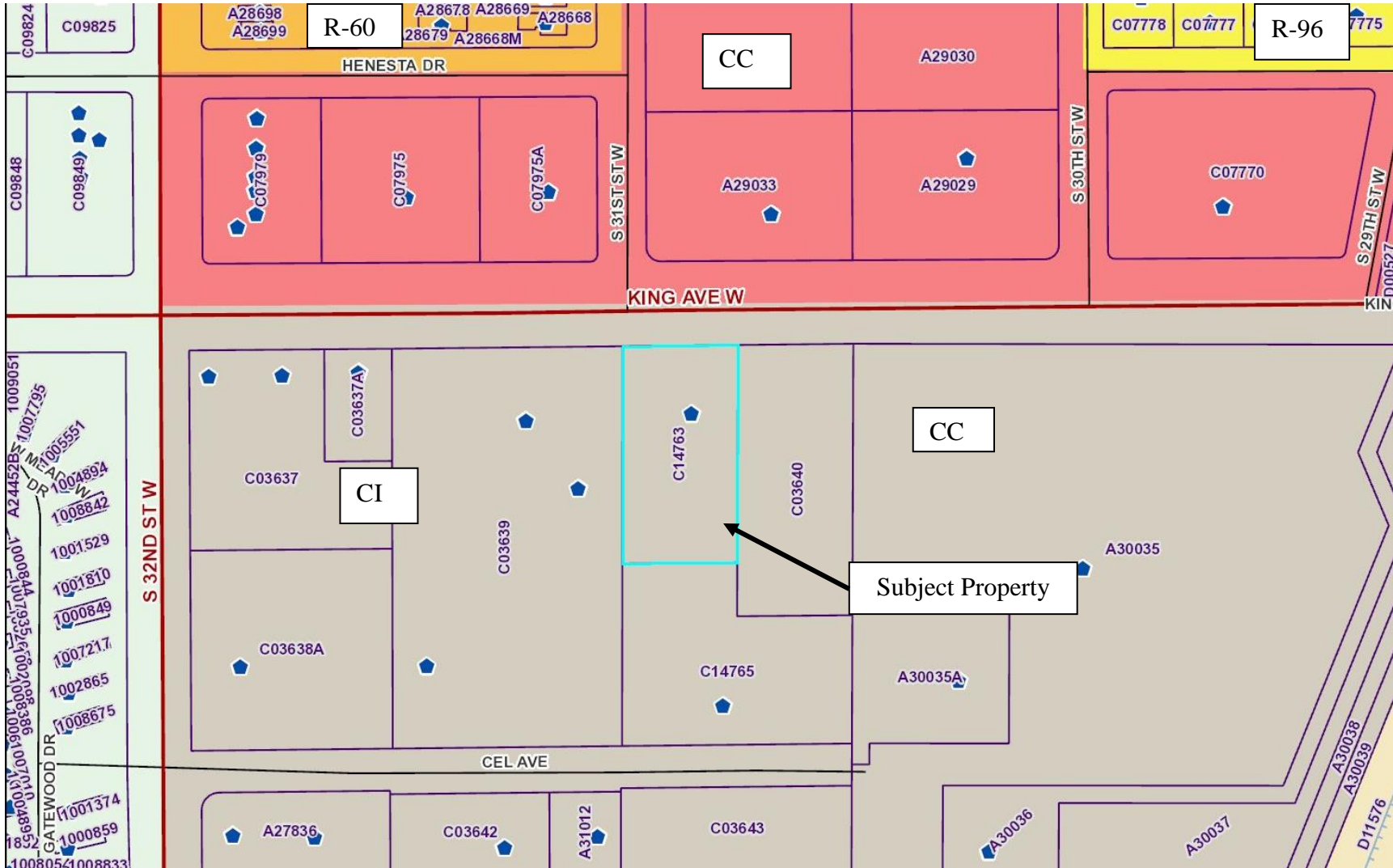
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### **Attachments**

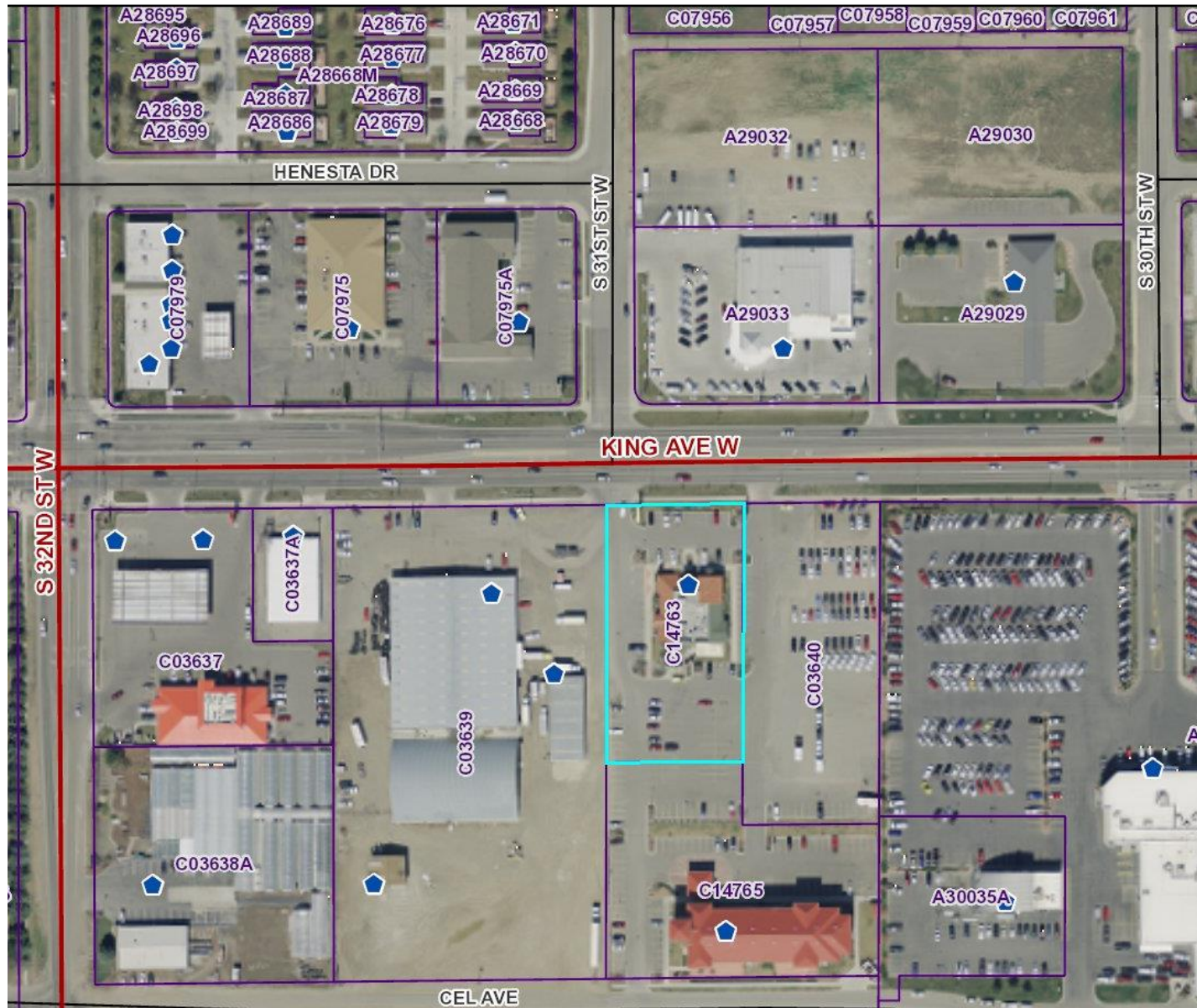
Zoning Map and Site Photos  
Application and site plans

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**Surrounding Zoning**  
Special Review #954 – 3042 King Ave West



# SR 954 - 3042 King Ave West





Subject Property



View east along King Ave West



View west on King Ave West



View north west across King Ave West



View north across King Ave West



Application and Site Plans  
Special Review #954 – 3042 King Ave West

January 31, 2017

Billings Special Review Application

Property located at 3042 King Avenue

Subject property is an existing business

Following questions:

(Q) In what ways is your proposal consistent with the goals and policies of the adopted growth policy.

(A) property is presently Johnny Carino's Italian restaurant, proposed use to be Mexican restaurant.

(Q) why is there a need for the intended use of the property at this location?

(b) excellent location for restaurant and best use for this facility.

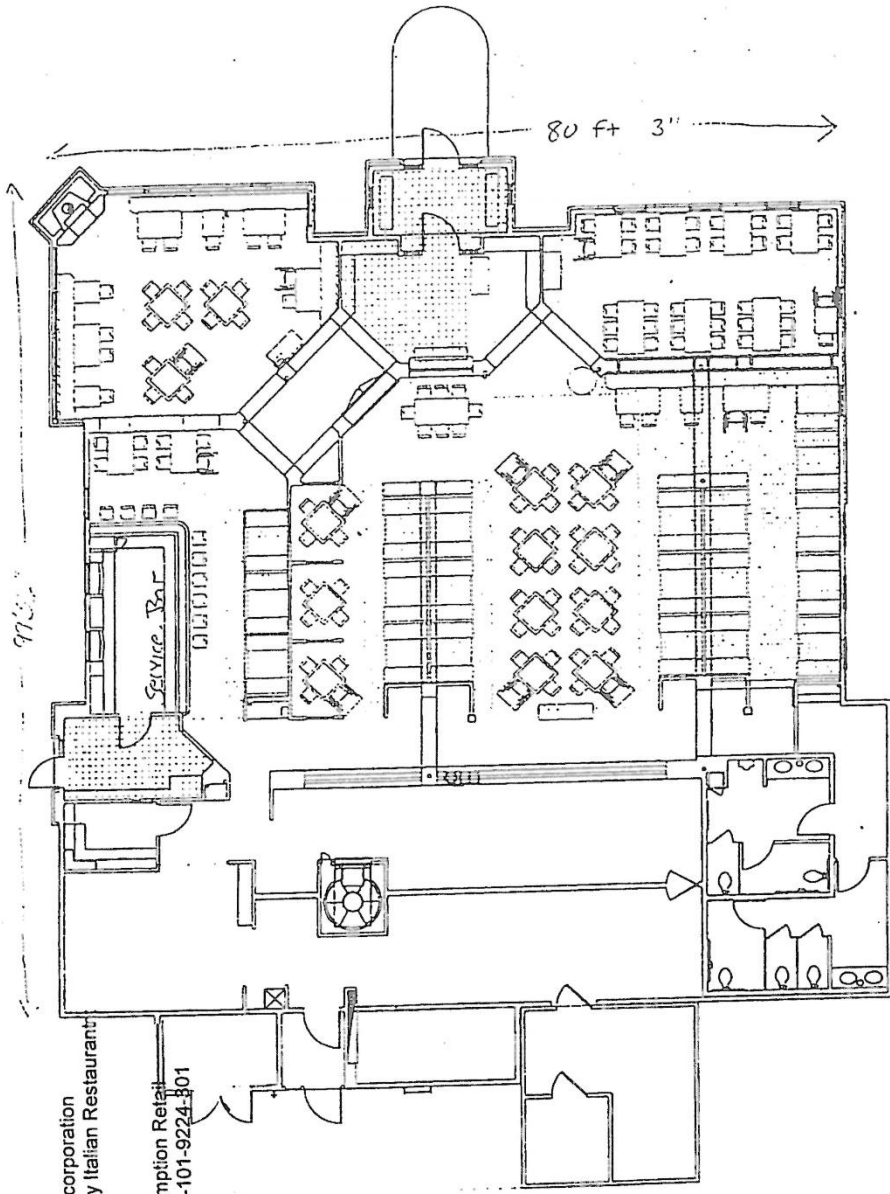
(Q) how will the public interest be served if this application is approved?

(c) addition of a fine Mexican restaurant on the west end.

(Q) the property is to be used as a Mexican Restaurant there are no plans for any construction.

The special review is for the change from beer and wine license to an all beverage license

there is no gaming attached to this license.



Omar, Inc., a Montana close corporation  
 d/b/a Johnny Carino's Country Italian Restaurant  
 3042 King Avenue West  
 Billings, Montana 59102  
 Montana On-Premise Consumption Retail  
 Beer/Wine License No. 03-101-9224-301



## City Zoning Commission

**Meeting Date:** 04/04/2017

**SUBJECT:** Zone Change 955 - 301-317 Covert Lane & 1739-1747 Cody Drive

**THROUGH:** Nicole Cromwell

**PRESENTED BY:** Nicole Cromwell

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### Information

#### REQUEST

**City Zone Change 955 – 301 - 317 Covert Lane and 1739 – 1747 Cody Dr** – A zone change request from Residential 7,000 (R-70) to Residential 6,000 (R-60) on Lots 5, 6, 7 & 8, Block 7, Happy Hollow Subdivision, a 1.36 acre parcel of land. A pre-application neighborhood meeting was held on February 23, 2017 at Oasis Water Park. A concurrent special review has been submitted. Tax IDs: C00404A, C00404B, & C00404C. Presented by Nicole Cromwell, Zoning Coordinator

#### RECOMMENDATION

Planning staff recommends approval and adoption of the findings of the 10 criteria.

#### APPLICATION DATA

OWNER: McDonald Land Holdings

AGENT: Sanderson Stewart, Bryan Alexander

LEGAL DESCRIPTION: Lots 5-8, Block 7, Happy Hollow Subdivision

ADDRESS: 301-317 Covert Lane and 1739-1747 Cody Drive - three, 4-plex buildings

CURRENT ZONING: R-70

EXISTING LAND USE: Three, 4-plex apartment buildings

PROPOSED USE: Special review requested to demolish existing 4-plexes and construct three 10-plex apartment buildings

SIZE OF PARCEL: 1.36 acres = ~59,242 square feet

#### CONCURRENT APPLICATIONS

Special Review 955 - request for three, 10-plex apartment buildings with parking lot and alley access.

#### APPLICABLE ZONING HISTORY

**Subject Property** - The current zoning, R-70, was the original zoning of the property when the County adopted jurisdictional zoning in November 1973. The existing apartments were constructed in 1965, 1966 and 1967, prior to the County adopted zoning. The property was annexed to the City in 1984 along with many other properties in Billings Heights. The zoning remained the same after annexation.

**Surrounding Properties** - There have been 3 other zone changes in this subdivision and 2 were successful and 1 was denied. The unsuccessful zone change was for lots with frontage on Wicks Lane and the proposed zoning was Community Commercial (CC). This was denied by the County Commissioners in 1991. The 2 successful zone changes created 3 lots for multi-family development and 1 lot for an office building. Two more recent zone changes were approved in Meadowlark Subdivision and Superior Homes Subdivision to the north. These zone changes allowed the development of townhomes (duplexes) on slightly smaller lots than required in the R-70 zone. Planning staff found 9 other similar properties with multi-family apartments in the R-70 zone in this area of Billings Heights. In addition, there are at least 2 properties in the R-60 zoning districts nearby with multi-family development but no

special review on file. These developments were constructed before the 1997 amendment that now requires special review for any new multi-family development in the R-60 zone.

## **SURROUNDING LAND USE & ZONING**

NORTH:	Zoning: R-70 Land Use: Single family dwellings
SOUTH:	Zoning: R-70 Land Use: Single and two-family dwellings
EAST:	Zoning: R-70 Land Use: Single and two-family dwellings
WEST:	Zoning: Public Land Use: City-owned park land

## **BACKGROUND**

This is a zone change application for existing developed lots at the intersection of Cody Drive and Covert Lane. The existing three, 4-plex apartment buildings were constructed in the mid 1960s prior to the current zoning of R-70. The R-70 zone does not allow more than 2 attached dwelling units. The proposed zoning of R-60 would allow the existing buildings to be conforming to the zoning. The owner could re-build the 4-plex apartment buildings on the property if the zone change is approved. The zone change would not allow the owner to add additional multi-family dwellings on the property without a special review approval. The owner could add single family or 2-family dwellings on the property with or without a zone change approval.

The site is 1.36 acres in total lot area and is adjacent to R-70 zoning to the north, east and south. To the southwest, there are several lots zoned R-60, but these are now owned by the City Parks Department. There are 3 additional lots on the west side of the large park that are zoned R-60 and these are developed with single family homes. The 15-acre park directly west of the subject property is zoned Public and managed as a natural park.

There have been few zone changes proposed within this area of Billings since zoning was adopted by the County in 1973. One zone change was approved for property at 209 - 221 Wicks Lane to RMF-R. This 1.12 acre property is developed with two 6-plex apartments and 1 duplex (14 units). Another nearby zone change was approved for property at 332-338 Sharron Lane. This 15,516 square foot parcel of land is developed with 2 duplexes (4 units). There are several corner properties within the area that have developed with multi-family dwellings or with multiple single and 2-family dwellings. In the immediate neighborhood, there are no apartment-style dwellings with more than 6 units in a building. Outside of the immediate neighborhood, there are a few multi-family apartments including the new apartments west of All American Pharmaceutical on Pemberton Lane, the Volunteers of America elderly housing apartment on Wicks Lane, and some apartments on Almadin Lane in Lake Hills Subdivision.

The subject property is within an established neighborhood and the existing 4-plexes were constructed prior to zoning in this area of Billings Heights. While the apartments have served as a good housing choice in this stable neighborhood, their useful life span is nearing its end. The site was developed without any significant off-street parking, landscaping or amenities for the residents. All types of housing and development now require a minimum number of off-street parking spaces, appropriate landscaping, enclosures for solid waste collection, complete sidewalks, outdoor amenities for residents such as outdoor patios, play areas and areas where informal social activities can take place. All of these customary amenities are lacking on the site.

Both streets, Covert Lane and Cody Drive, are built to current City street width standards - 34 feet from curb to curb - and there is adequate width to accommodate on-street parking and local traffic through the area. Both streets are considered local streets so traffic counts are not taken on a regular basis. Only 1 traffic count was taken on Covert Lane in 1996. The count was done west of Lake Elmo Road and resulted in a traffic count of 675 vehicle trips per day. On average, apartments generate 6 to 8 vehicle trips per day per dwelling unit. This number includes trips by residents as well as visitors and service providers such as mail delivery and trash services. The existing 12 dwelling units generate between 72 and 96 vehicle trips per day total.

Twenty five interested persons attended the pre-application meeting with the owner and the consultant team for the applicant. The sign in sheet and the meeting minutes are attached to this staff report. Many concerns were voiced by

the surrounding property owners and residents on topics ranging from street capacity, the proposed increase in development density, concern with the lack of property maintenance, incomplete sidewalks, and on-street parking.

The Billings Heights Neighborhood Plan (2006), the Infill Policy (2011) and the City of Billings Growth Policy (2016) have goals and guidelines that generally support the proposed zone change for this property. Under the current zoning, the existing 4-plexes could not be re-constructed or have major repairs due to their legal non-conforming status. The R-70 zone does not allow more than 2 attached dwelling units for each 9,600 square feet of lot area. The existing zoning would allow the 4-plexes to be demolished but re-development could only consist of single family or 2-family dwellings. The property could accommodate up to 12 dwelling units in this configuration without a zone change. The newest residential construction in the neighborhood is over 10 years old, but assessed values for dwellings average between \$150,000 to just over \$200,000. The proposed zone change would allow the owner to demolish and re-construct 3 new 4-plex dwellings on the property without additional zoning approval from the City Council. It is a benefit to the area to align the existing development with the zoning regulations so investment in new construction can be accommodated. When properties fall into a legal non-conforming status, maintenance tends to be neglected because the investment is at risk and improvements generally never occur. In addition, purchasers and sellers of legal non-conforming properties do not have access to standard forms of financing or insurance. The Heights Neighborhood Plan emphasized the need to ensure new housing in existing areas fit in with fabric of the area and mapped this area as a neighborhood to accommodate a medium density residential development. Medium density, as defined by that plan, was between 4,000 to 7,000 square feet per dwelling unit. This medium density designation was not meant to be applied on a lot-by-lot development but an overall density in a neighborhood. The average density of this neighborhood from Meadowlark Lane to Wicks Lane and west to the BBWA (and excluding the park land) is about 3.5 dwellings per acre or 1 dwelling for each 13,000 square feet of land area. There is a good mixture of housing choices in the neighborhood ranging from single family homes on large lots, to apartments, to townhomes and condominium units. The 2011 Infill Policy and the 2016 Growth Policy support maintenance of existing housing choice in neighborhoods by ensuring the zoning is compatible and property investments are encouraged.

The Planning staff is recommending approval of the zone change based on the proposed findings of the 10 criteria. There is R-60 zoning in close proximity to the subject property and the existing multi-family apartments have been a part of the neighborhood fabric for 60 years. The proposed zoning will allow the property owner to re-build the existing 4-plex dwellings using traditional financing and will tend to stabilize and improve neighboring property and market values.

## **RECOMMENDATION**

Planning staff recommends approval and adoption of the findings of the 10 criteria for Zone Change 955.

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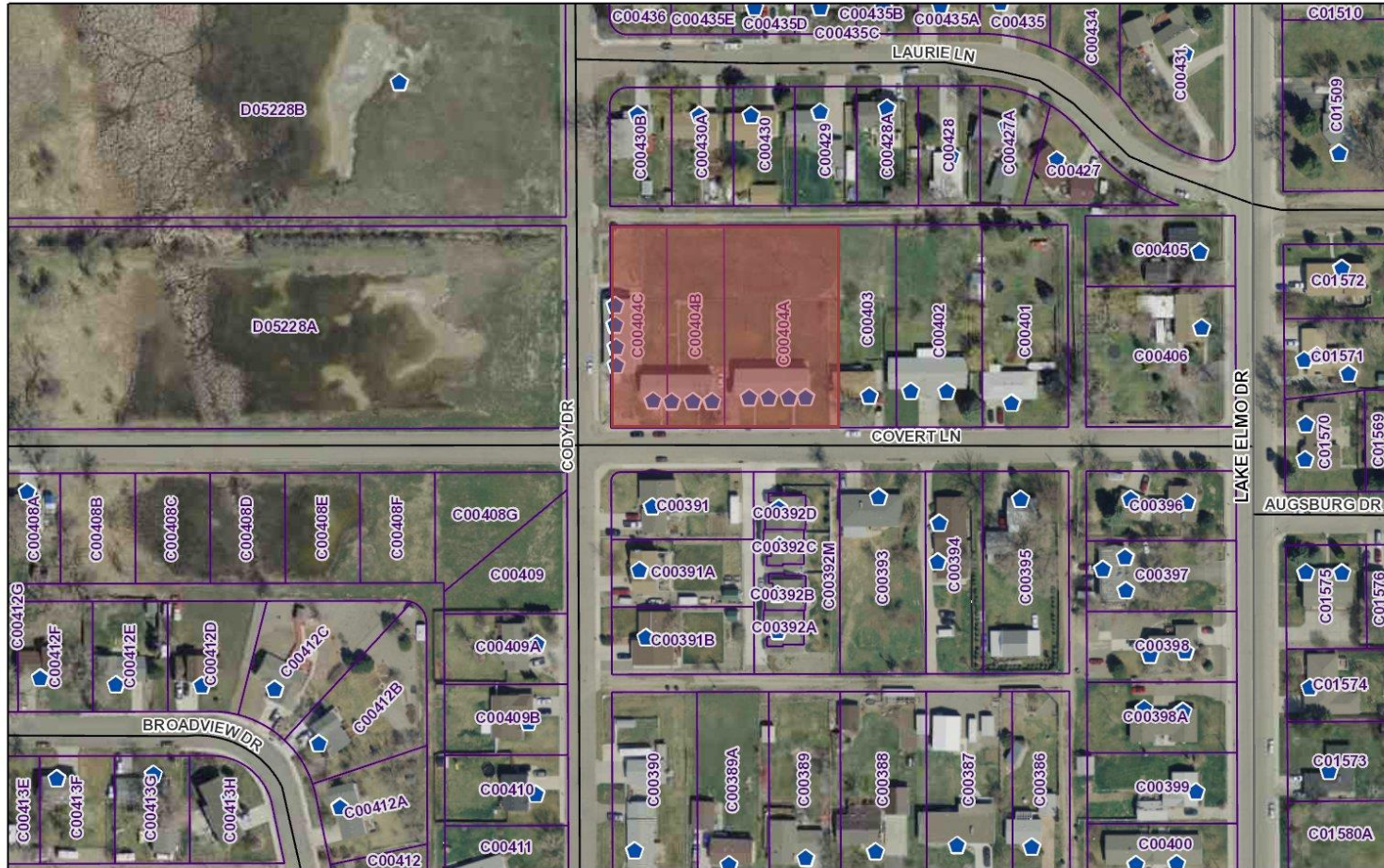
### **Attachments**

Zoning Map and Site Photos  
Proposed findings of the Criteria  
Pre-application info and applicant letter

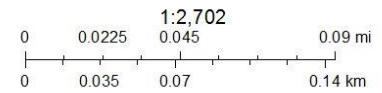
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# ZC 955 SR 955



March 7, 2017





Subject Property – view from Covert Lane



View east along Covert Lane



View west along Covert Lane



View across Covert Lane looking southeast



View from the corner of Cody Drive and Covert Lane looking north



View west from Cody Drive and Covert Lane

Zone Change #955 – 301 – 317 Covert Lane

Prior to any recommendation to the City Council, the Zoning Commission shall consider the following:

1. *Is the new zoning designed in accordance with the Growth Policy?*

The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy:

- Home Base: A mix of housing types that meet the needs of a diverse population is important; Common to all types of housing choices is the desire to live in surroundings that are affordable, healthy and safe;

The proposed zoning would allow the applicant to re-build three 4-plex dwellings that will conform to zoning. The existing structure was constructed in the mid 1960's prior to the current zoning code and is at the end of its building life cycle. The current zoning discourages investment in the property for regular maintenance or improvements since the structures could not be re-built. Financing improvements or sale of the property is unnecessarily complicated by the current zoning. The property provides a desirable and needed housing choice in the area dominated by single family and two-family dwellings.

- Strong Neighborhoods: Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels; Walkable neighborhoods that permit convenient destinations such as neighborhood services, open space, parks, schools and public gathering spaces foster health, good will and social interaction; Neighborhoods that are safe and attractive and provide essential services are much desired.

The proposed zoning will allow the reconstruction of three 4-plexes to be re-built. The zone change does not allow the owner to add additional multi-family dwellings on the property without special review approval. The applicant has submitted a concurrent special review application to expand the multi-family units. The owner could add single family or 2-family dwellings on the property with or without a zone change approval.

2. *Is the new zoning designed to secure from fire and other dangers?*

The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers.

3. *Whether the new zoning will promote public health, public safety and general welfare?*

Public health and public safety will be promoted by the proposed zoning. The current zoning of the parcel does not provide certainty for future re-construction of the three 4-plexes and encourages the property owner to not invest in regular maintenance or upgrades of the property. This tends to have a negative effect on the surrounding properties and neighborhood. Ensuring the zoning is conforming to the development will promote the public health, safety and general welfare of the area.

4. *Will the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?*

Transportation: The proposed zoning will not have any effect on the existing transportation system as there are already three 4-plexes existing on this property.

Water and Sewer: The City provides water and sewer to the property. There will be no additional impacts to the system from the proposed zoning.  
Schools and Parks: Schools and parks should not be affected by the proposed zoning.  
Fire and Police: The subject property is served by city public safety services. The Police and Fire Departments had no concerns with the zone change.

5. *Will the new zoning provide adequate light and air?*

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6. *Will the new zoning effect motorized and non-motorized transportation?*

The new zoning will have no effect on transportation systems.

7. *Will the new zoning will promote compatible urban growth?*

The new zoning does promote compatibility with urban growth. The proposed zoning will allow this parcel to continue at this location and the use is compatible with the existing neighborhood.

8. *Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?*

The proposed zoning does consider the character of the district and the suitability of the property for the proposed use. This area is a mix of single-family, duplex and multi-family dwellings. The proposed zoning is identical to the zoning southwest of the subject property and is an appropriate zone with the adjacent zoning of single and duplex residential neighborhoods to the north, east and south.

9. *Will the new zoning conserve the value of buildings?*

The property is currently developed with three 4-plex dwellings, a nonconforming use in the existing R-70 zone. Approval of the zone change will make the current development conforming to zoning and will allow for reconstruction of multi-family dwellings. The value of existing buildings and the parcel will be improved and conserved by the proposed zoning.

10. *Will the new zoning encourage the most appropriate use of land throughout the City of Billings?*

The proposed zoning will allow the existing development to continue and to be reconstructed if necessary in the future. This is the most appropriate use of the land at this location.

February 15, 2017

Reference: Proposed Zoning Change and Special Review  
Happy Hollow Subdivision, Lots 5-8, Block 7

Dear Sir or Madam:

You are invited to a neighborhood informational meeting and discussion regarding a proposed zone change and special review for property located at the intersection of Cody Drive and Covert Lane. A copy of a map showing the property location and proposed zoning is included with this letter for reference. The property is legally described as: Happy Hollow Subdivision, Lots 5-8, Block 7, Billings, Montana.

The property is owned by:

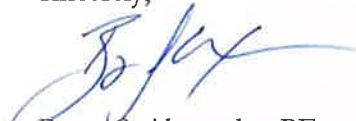
McDonald Land Holdings, LLC.  
1349 Galleria Drive, Suite 200  
Henderson, Nevada 89014-8624

The developer/owner under contract is proposing a zone change for the approximate 59,300 square-foot property from Residential 7,000 to Residential 6,000 zoning, as shown on the attached zoning exhibit. The owner wishes to re-develop the property with three 10-plex apartment buildings. A conceptual exhibit is attached for your information.

The developer of the property, along with representatives of Sanderson Stewart and AT Architecture, will be presenting the proposed zone change and special review and will be available for any questions during the meeting. The meeting will be **Thursday, February 23, 2016 at 6:00 PM at the Oasis Water Park, 543 Aronson Avenue, Billings, MT 59105.**

Your presence is requested and we look forward to meeting with you. If you have any questions, please contact me at 406/869-3343.

Sincerely,



Bryan S. Alexander, PE  
Senior Engineer

BSA/bc

Enc.

P:15052.02\_Happy\_Hollow\_Neighborhood\_Ltr\_Correspondence\_021617



To Plan and Design  
Enduring Communities...

Cody/Covert Neighborhood Meeting  
 February 23, 2017

Name	Address	Telephone Number
John Wells	303 Meadowlark	252-3829
Jeray Evans	322 Covert Lane	698-2908
Rick Cortez	324 Lauritz Ln	684-4912
Zach Phelps	320 Covert Ln	690-6393
Bet Neese	3523 Conde Lafore	259 0178
Virgil Middendorf	1643 Nadaline St.	850-2958
Mike <del>Adas</del> Tomkovic	1819 Cody Dr. Ridgely, MN	256-5588
RAIG FAYARD	309 STILLWATER LANE	861-2993
BRUCE BUSS	1735 BROADVIEW DR.	252-6851
STEPHON MENTZER	330 LAURIE LN	256-9962
Panda (Bier) - Mentzer	330 Laurie Ln.	256-9963
ANASTAS FERD	325 LAURIE LN	855-2888
Matt Kivi	336 Laurie Ln.	907-301-8053
Mike Makern	119 COVERT LN	406-976-1383
MARY T. MATTEAN	119 Covert Lane	406 876-4885

Cody/Covert Neighborhood Meeting  
 February 23, 2017

Name	Address	Telephone Number
Jeremy Wilson	119 Gevert Lane	435 8749371
Karen J. Miller	234 Sharon Lane	406-670-7314
Julie Hostetter and Bill Diller	118 Stillwater Ln.	406-861-7382
The Warnes	334 Stillwater Ln.	406-696-8254
Gross	1735 Cobb	200-7244
Carol D. Martzell	326 Laurie Ln.	(406) 671-5591
Eugene & Baha	312 Laurie Ln.	406 205-6888
Olga Baker	"	406 245-6888

## MEETING MINUTES

<b>PROJECT: Proposed Zone Change and Special Review – Happy Hollow Subdivision Lots 5-8, Block 7</b>			
Project No: 15052.02			
Meeting Location: 543 Aronson Ave.		Meeting Date: 2/23/17 6:00 P.M.	
Meeting Subject: Neighborhood Meeting		Prepared by: Bryan Alexander	
Attending:	(see attached sign-in sheet)		
Bryan Alexander	Sanderson Stewart		
John Atkinson	AT Architecture		
John Jones	Moulton Bellingham		
Tom Mutchler	Rainbow Property Management		
Jane Penny-Kukes	McDonald Land Holdings, LLC.		
Date of Issue: 3/6/17			

**Minutes:**

- Meeting facilitated by Bryan Alexander with Sanderson Stewart and John Atkinson with AT Architecture.
- Bryan explained the existing site conditions and proposed site development to include three 10-plexes (30 units).
- Explained current and adjacent zoning districts and described what these zones mean along with the differences between the existing R-7000 and the proposed R-6000.
  - What are the maximum number of units allowed under current zone?
    - Up to 12 based on area, all duplexes (9600 sf/duplex)

- Existing site has three 4-plexes and is “legally non-conforming” and does not meet the current zoning requirements.
- Explained how anything greater than a duplex in R-6000 zone requires a special review. Explained that a special review can have conditions of approval, where a zone change cannot. Provided zoning commission date, time, and location and encouraged everyone to attend so their voices are heard.
- John suggested viewing the Trailhead Townhomes, a project on Avenue E between 16<sup>th</sup> Street and 17<sup>th</sup> Street that was recently re-developed by the same owner.
- Questions were asked about parking; 45 parking spaces are shown on the presented concept exhibit (1.5 spaces per unit). The parking count included garages.
  - People generally felt that this was too few parking spaces, though it would meet code requirements.
  - Neighbors expressed concerns that the existing streets are not wide enough for parking on both sides and 2-way traffic.
- Tom with Rainbow Properties Management addressed the following questions:
  - What happens to existing tenants? They can get them new places to live.
  - Will this be Section 8? No, rent prices likely to be too high for that.
- Concern about added traffic. Bryan stated that traffic is generally estimated that a single-family dwelling will contribute 10 trips per day, a little less for apartments.
- Concern was expressed about the project density. Feel it changes the character of the neighborhood.
- Jason Lillie from Task Force asked how this will benefit the neighborhood. Provided Facebook feedback (attached) that they posted information on page, which he stated was mostly negative. Was concerned that project will not be maintained and fall into disrepair like existing site.
  - John and Bryan stated the largest benefit is to remove existing dilapidated buildings and re-develop with much nicer facilities. The existing buildings, especially near the intersection, are often flooded and re-development can help reduce the flooding risk.
- Concern expressed about crime, drug dealers, etc.

- Tom with Rainbow emphasized that this is not low-income housing and higher-rent properties do not typically have those issues based on his experience of other properties in town.
- Bryan explained the zone change and special review process and timeline of process and meeting locations. Meeting schedule and location list from zone change application packet provided at sign-in table for everyone to view.
- Concern was also raised that many people did not receive notice. Bryan explained the 300-foot notice requirement and that the same radius would receive the public notice.
- What is the tax ramifications or costs the neighbors will incur?
  - The neighbors will not pay anything construction-related to the site development.
  - Taxes would not be expected to change much if any for adjacent owners.
- Concern was again expressed about density, resultant parking, and children having a place to play.
  - Tom with Rainbow stated that a majority of the units are 2-bedroom units. Based on their data 35-40% of 2-bedroom rentals in their Billings properties are occupied by 1 person and the second room is used as an office. There tend to be very few children in 1 and 2-bedroom apartments.
- A resident asked why they do not keep the existing zoning and build new units.
  - It was explained that redeveloping the site is a large financial investment and that the density helps with a quicker return on investment.
- A resident asked if the alley would be paved.
  - John (AT) mentioned that the City may require it as part of the site development.
- Residents mentioned the existing dumpster currently placed near the alley and Cody Drive and that it is ugly and often loaded with trash by others driving by.
  - John (AT) stated that the dumpster would be moved further inside the site and would include an enclosure, likely a block enclosure to screen the dumpster visually.
- A resident asked if there was a Nevada investor as the address for McDonald Land in the letter was addressed from Nevada.
  - John Jones (owner's attorney) stated that the owner is the McDonald family and that the family are longtime Billings

residents. He further explained that Sam & Judy McDonald originally developed the property and Sam has since passed away. Sam's focus was on the Wendy's franchise and as a result, many of Sam's properties like this one fell into disrepair. Since Sam's passing, the family has been trying to cleanup/re-develop the properties; Trailhead Townhomes was the first of these. The density proposed is a business decision based on return on reinvestment in the property.

- John Jones encouraged people to be involved in the public process.
- Concern was raised about existing traffic and people speeding.
- A resident was critical of Rainbow Properties and the level of maintenance of some of the properties they manage.
  - Tom with Rainbow stated that the facility maintenance is up to the individual owners. Tom also stated that McDonald Land was one of the best at maintenance.
  - The residents question Tom's response related to the owner's maintenance program as the existing buildings are in rough shape.
  - John Jones stated that it was a long time ago when the site fell into disrepair and continuing to pour money into the existing buildings is not a good financial decision. Especially given the flooding that has occurred.
  - A resident asked why they should believe that the new facilities would be maintained any better and not run into the ground like the current site.
  - Jane Kukes-Penny (owner's representative) reiterated John Jones' comment about Sam's focus being on Wendy's and the properties being neglected through that period. Since then they have done a lot of maintenance including changing carpets, cabinets, doors, and roofing. There were also necessary repairs and mold cleanup after the flooding that has occurred from street drainage.
  - John Jones stated that the owner is responsible for maintaining the property, but the buildings are at a point where the owners do not want to put non-essential money into them. John added that the zoning commission will listen to the concerns and can impose conditions to an approval such as lighting, landscaping, berming, traffic, etc.

- A resident asked what the maximum density within the existing zoning that would be allowed.
  - Bryan stated that theoretically, given the site size of 60,000 square feet that 6 duplexes could be accommodated by zoning; however, whether that works with the existing street frontage and lot dimensions is another constraint.
- John Jones gave example of the Trailhead Townhomes and that they went through a Special Review and the neighbors of that project had similar concerns. Now that it is constructed, everyone is happy with it.
- Is there any consideration for fencing? Would there be lighting? Concept shows 1 dumpster, feel that more (maybe 2-3 would be needed). There is limited area for children to play on the site; children tend to play in the street if nowhere on site.
  - John (AT) stated that dumpsters can be added; Tom with Rainbow added that additional trash collection times/week could be added as well.
  - Dumpster(s) to be enclosed, likely with a block wall.
  - Lighting would be down-lighting and have cut-offs to not shine lot off the property.
- Space behind garages should be reduced so junk is not stored in this space.
- Any ideas for stormwater.
  - Bryan stated that in-concept stormwater storage would be handled under the parking lot. A geotech report is being prepared, but we have not yet received it and evaluated the stormwater design.
  - Bryan explained City stormwater policy to store the 50-year, 24-hour storm prior to any discharge.
- Will geotech report be publically available?
  - John Jones stated that the report is being prepared for the building and stormwater designs. It is a confidential report and he doesn't mind sharing it. The City does receive the report and reviews it with respect to the stormwater design and building design.
- One neighbor concerned that the project was "too nice" for the neighborhood.
  - Did not note many nods in agreement.
  - One resident stated that she is not opposed to a nice development, though the density is her concern.
- What happens if zone change and special review doesn't happen?

- Then there has to be a different plan (John Jones). We will take what is discussed here to modify the plan to address concerns to the extent possible with the proposed project.
- Concern expressed about traffic, existing street width, and lack of sidewalks in the neighborhood.
  - John Jones stated that we can solve all the existing street/traffic problems, but we can address those associated with the site directly.
- A neighbor asked to consider a place for child to play such as park space or playground to keep them off the street.
- John (AT) stated that April 4<sup>th</sup> is the zoning commission meeting. He encouraged everyone to attend.

### **Synopsis of Meeting Results**

The meeting conducted on February 23, 2017 was generally that the neighborhood is onboard with re-developing the dilapidated site; however, there was much concern about the proposed density and its impacts associated with parking, traffic, and safety of children playing.

The neighbors and task force member(s) voiced concern that given the current site's condition that the same would occur down the road after re-development, so the benefit of an improved site would be short-lived. Concerns were also raised about the existing lack of sidewalks in the neighborhood, traffic, and street widths.

Post Details



Heights Task Force

Event

Requested zone change at Cody Dr. and Covert Lane. Public meeting is Feb 23 at the oasis at 6pm. This zone change would allow the developer to build 3 10-plex apartment units. Current zoning is R-7000 and they are requesting a change to R-6000. I am all for development but the people in this neighborhood purchased homes based off the expectation that there would not be a 30 unit apartment down the street. These types of zone changes only benefit the developer and have a negative impact on residential neighborhoods in most cases. We ask, if you can, to come and support home owners and keep these neighborhoods residential in nature. If you can't make it please leave a comment here that I can take to the public meeting.

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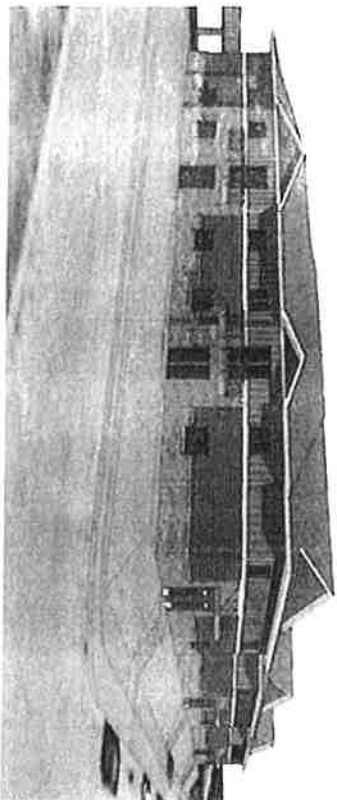
234

NEGATIVE FEEDBACK

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23

Zone Change Public Meeting  
Tuesday, Feb 21, 2017 6:00 PM - 8:00 PM

Going

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Boost this post for \$5 to reach up to 870 people.

Boost Event

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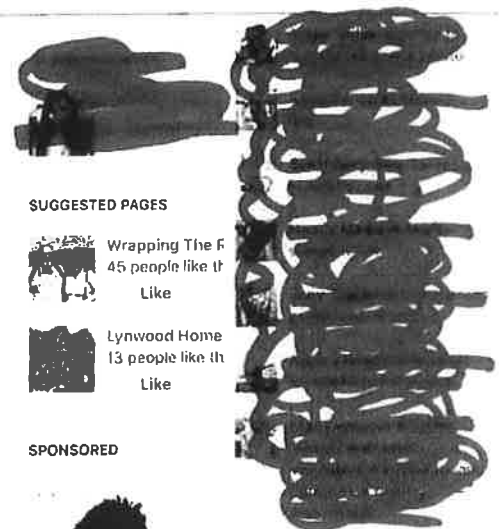
Heights Task Force shared their event.  
Written by Jason Lillie February 21 at 9:05am

Requested zone change at Cody Dr and Covert Lane Public meeting is Feb 23 at the oasis at 6pm This zone change would allow the developer to build 3 10-plex apartment units Current zoning is R-7000 and they are requesting a change to R-6000. I am all for development but the people in this neighborhood purchased homes based off the expectation that there would not be a 30 unit apartment down the street. These types of zone changes only benefit the developer and have a negative impact on residential neighborhoods in most cases We ask, if you can, to come and support home owners and keep these neighborhoods residential in nature If you can't make it please leave a comment here that I can take to the public meeting.



**Zone Change Public Meeting**  
Today 6 PM The Oasis Billings  
8 people interested 2 people going

Going



SUGGESTED PAGES

- Wrapping The F  
45 people like it  
Like
- Lynwood Home  
13 people like it  
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Don Roberts, Christopher, Chae, Kevin and 2 others

Christopher

**Leslie Bennett Roche** That development would change the whole tone of the neighborhood - the increase in traffic alone is enough for me to say no!

Unlike Reply Message 5 February 21 at 9:45am

**Rachele Binkoski** Leave it as residential!

Unlike Reply Message 5 February 21 at 9:45am

**Dustin Halama** Hasn't a portion of that intersection been undeveloped for years? I'm sure the city could benefit from the extra tax income

Unlike Reply Message 1 February 21 at 10:14am

**Corrina Graham Martin** Are they kidding? That neighborhood is in no way set up to support 30 units worth of traffic and apartments! Plus the little units that are in that area already are not kept up to the standard of the rest of the neighborhood. While there is a need for affordable rental housing, in the middle of a developed subdivision is not a wise choice. It also likely means it would not be affordable. Why not build small stand alone homes there, two and three bedrooms, under \$160k. True starter homes

Unlike Reply Message 7 February 21 at 10:51am

**Leslie Bennett Roche** I questioned the infrastructure to accommodate the increased traffic, too...

Unlike Reply Message 2 February 21 at 11:22am

**Corrina Graham Martin** Are there even sidewalks along that area? I'm remembering no.


Unlike Reply Message 1 February 21 at 6:09pm


**Heights Task Force** Yes there is,





Like Reply Commented on by Jason Lillie February 21 at 6:44pm Edited


Write a reply

 Jenny Jasper The only person that would truly benefit is the builder. A development of that size is going to be 1) an eye sore, 2) will overwhelm the elementary school with new students, and 3) will add too much traffic to a residential street. I agree with previous comment - build true starter homes instead, keep with the residential neighborhood.  
 Unlike Reply Message 2 February 21 at 11:21am

 Daren Amy Severson No this area is not able to accommodate this change and should remain residential.  
 Unlike Reply Message 5 February 21 at 11:55am


 Carrie Sherburn Langendorff I own my home 2 houses down on covert- they need to tear those apartments down and build 3 nice starter homes! I say NO! NO!! NO! NO!!!  
 Unlike Reply Message 4 February 21 at 3:02pm


 Kyle McGlone Keep it residential and maybe curb, gutter and pave all the surrounding streets first!  
 Unlike Reply Message 4 February 21 at 4:10pm


 Heights Task Force Here is a drive by today TL-Cody/Covert looking North, TR Cody looking North; BL Cody/Covert Looking North to Covert; BR Cody Looking West behind present apartments




Like Reply Commented on by Roy Neese February 21 at 6:39pm Edited


 Ryan Morton Matthew Art  
 Unlike Reply Message 1 February 21 at 8:31pm


 Matthew Kind I'll be there! I like my neighborhood the way it is!  
 Unlike Reply Message 1 February 21 at 8:33pm

 Matthew Kind Thanks Ryan Morton!  
 Unlike Reply Message 1 February 21 at 8:34pm


 Ryan Morton Always  
 Unlike Reply Message 1 February 21 at 8:34pm


 Jennifer Ann Smith Can someone explain to me where this is in the heights? I live in the heights and am not familiar with these street names  
 Unlike Reply Message 1 February 21 at 10:13pm


 Heights Task Force Off west of Lake Elmo Dr north of Wicks Ln  
 Like Reply Commented on by Virgin Middendorf Yesterday at 6:27am


 Deb Roberts Christensen Cody is across the street from St Bernards Church  
 Unlike Reply Message 2 Yesterday at 1:44pm

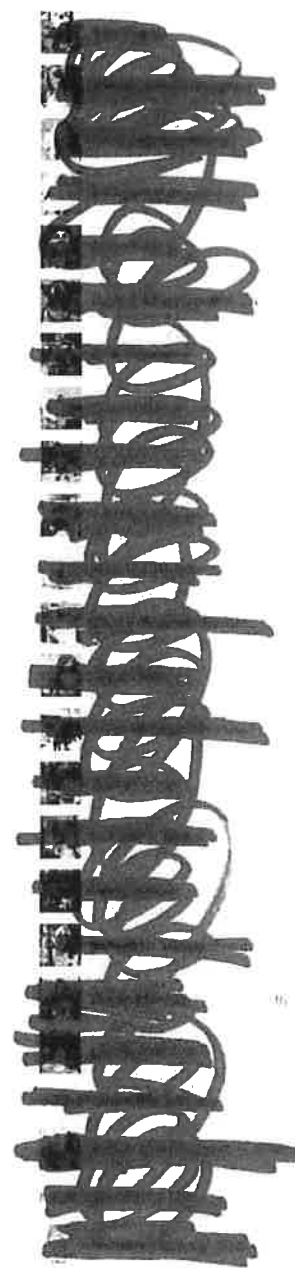
 Write a reply...

 Jeff Walters I'm curious if you have any data to support your claim that "these types of zone changes only benefit the developer and have a negative impact on residential neighborhoods", or is that just an opinion based on your position against this type of development? How does this fit into a larger community zoning plan? Or is there no plan?  
 Unlike Reply Message 2 Yesterday at 7:01am

 Heights Task Force The neighborhood is primarily residential, there are no multi-family with 30+ units in the neighborhood. 30 rentals will not benefit the neighborhood in any way, it will not increase property values. It will place more pressure on the current infrast. See More  
 Like Reply 2 Commented on by Jason Lillie Yesterday at 7:54am

 Jeff Walters At risk of appearing argumentative (which I'm not), this still doesn't address my questions. Clearly, you personally don't like this development plan. I'm just curious if this is your own position, or if it's truly representative of Heights residents. See More  
 Unlike Reply Message 1 Yesterday at 9:40am

 Leslie Bennett Roche I have no formal training with planning, nor have I been active in city matters until this year with Medicine Crow



opening, so this is purely my 2 cents - with other matters of housing/development and infrastructure that I've seen, the city doesn't seem to have a good handle on planning: Medicine Crow (as well as Beartooth) and traffic with MANY students on foot - NO sidewalks or street lights, Barrett Road being narrow 2-lane with a BBWA spike lining one side and agricultural land and property lines with fences extending fully to the road on the other. The Mary Street project should have happened 30 years ago before all the development was allowed there. The Bench connector has been a great addition to ease traffic off of Main. The Aronson project was on the books for 30 years before it was implemented. Allowing Starbucks to build, with a drive thru window, no less, on about the busiest intersection with major traffic congestion in the Heights. These are what I remember off the top of my head, and all have happened in the 13 years since we moved back to town.

Unlike Reply Message 1 Yesterday at 1:44pm



Catrina Hoffer Michelle Kay Jacobson and Thomas Alan Davis

Unlike Reply Message 1 Yesterday at 10:45am

View 41 comments

Heights Task Force Catrina Hoffer, good question. Please come to the meeting tonight to ask.

Like Reply Commented on by Roy Neese 2 hrs



Alli Jones I have to say no to the change. There have been no provisions made for parking. Increased traffic. Also, there is a big difference between living next to a house or apartments. Those people bought their houses and doing that to their home values would not be right.

Unlike Reply Message 1 Yesterday at 11:11am



Alyssa Boyer Leave it residential!

Unlike Reply Message 1 Yesterday at 11:41am



John Hadd I've noticed a lot of low income apartments and duplexes going up in the Heights area. How bout start building apartments over on the west end.

Unlike Reply Message 1 75 hrs

View 3 more replies



Roy Neese Alicia Hahon you are correct, I did not address the "low-income", but only apartments. That said there is a difference between housing for low income people and property that is rented at a low amount because the owner does not take care of the property. I don't know if the apartments on site presently qualify for low income individuals or not. Also, unless I missed it, no where in the information we have says that this new project will be for "low-income", only that there will be 30 units. So whether this proposed project is for low income or not, I don't know. We can ask at the meeting, which I hope you will come to. There are some low income projects all over town. There are some housing project designed and build for individuals with low income that need good affordable housing in the Heights. The Heights Task force meet with the HUD representative yearly and review and support these projects for individuals that need low cost housing. More information on these types projects around the city can be found at:

<http://www.billingshousingauthority.org/> <http://www.billingshousingauthority.org/affordable-housing/> to sure there more info out there that is all I could find for now.



Housing Sites - Housing Authority of Billings

BILLINGSHOA.ORG

Unlike Reply Message Retired Photo 1 8 hrs



Roy Neese Many have commented to leave it residential. Apartments are residential. There are three 4 unit apartments on site now (12 units with all offsite parking build in the mid 60s - was the Heights city or county then?) I believe what should be voiced is that you would like it to be left as zoned R7000 and as close to single family housing as possible. The present zoning R7000 allows for duplexes. I'm not a planning expert but based on the size of the 3 lots (about 59,000 SF) the owner of the land may be able to put up 8 duplexes (16 living units) under current zoning, assuming all the other zoning requirements are met (parking, water retention fire access, etc.). There are several duplexes in the neighborhood and a fairly new one across the street. I don't like zoning changes either and think that if someone purchased into the neighborhood expecting a certain type of housing, your city and it's representatives should fight to help you keep your neighborhood the way you want it. Now if all the neighbors don't mind the change and want to speak up in favor they can. However if you don't show up to the meeting, please don't complain when this is approved by the city planning or city council. If you don't want this same thing to happen in your neighborhood, then I would suggest you support this neighborhood, COME TO THIS MEETING and show

the City Council members you want the zoning to remain the same (or changed if you do) The city is all too easy to approved zoning and variances if there is no opposition. I hope to see you all there.

Unlike Reply Message 2 22 hrs



Morgan Leeson Please tell them that mixing home owners with low income apartments/condos etc. lower property values=less tax revenue for city. Increase theft and vandalism. I don't live far from cherry Creek area and it impacts my neighborhood extensively.

Unlike Reply Message 3 22 hrs

Heights Task Force Please come to the meeting and bring a friend  
Like Reply Commented on by Ray Reese 22 hrs



Susie Wollenburg I live in this neighborhood and have for 25 years. I do not want the extra traffic and the extra people cruising my neighborhood. I vote against this change and always will... Save our neighborhood please!

Unlike Reply Message 1 10 hrs



Jodi Hostetter Waller This is a terrible idea. This is a very quiet neighborhood and that park area supports many kinds of wildlife. Tear down those nasty apartments that are already there and build single family homes in its place. Also there is a lot of new development just a few blocks away, why not build there instead of in our well established neighborhood? We like it the way it is.

Unlike Reply Message 1 9 hrs



Virgil Middendorf This location is served by Bench Elementary. This service area need more single dwelling homes to balance the mobile home park(s)

Unlike Reply Message 7 hrs



Carrie Sherburn Langendorff I am unable to attend this meeting and I surely hope this comment will stand/talk in my place at the meeting tonight. I have owned my single family home - 2 duplexes away from those appartments for the last 8 years. I purchased my home because I valued the type of neighborhood. This neighborhood is not meant for such huge complexes! There is a HUGE difference between 12 apartments vs. 30 apartments. The traffic on the street is already scary with young children running around. I can only imagine the traffic that would start up down the alley alone - this would terrify me. (The alley runs on 2 sides of my property. I have 2 children under 5 (one having a disability) - this entire project sounds like a major company trying to put more \$money\$ in their pockets and not caring on what it would do to our neighborhood or the home values of us who currently own our homes here. There are absolutely NO other HUGE complexes like the ones they are wanting anywhere near this area (unless you cross Wicks lane) I absolutely say NO this zoning change! I would hope that our city council/zoning department would think about the welfare of the neighborhood over some BIG Corporate company trying to line their pockets with some more money

I suggest that they tear down their current appartments and either build 3 good (family) starter homes or rebuild new appartments the size the current zoning allows

Like Reply Message 54 mins

Write a reply



Write a comment...

Post Details



Billings Heights Real Estate

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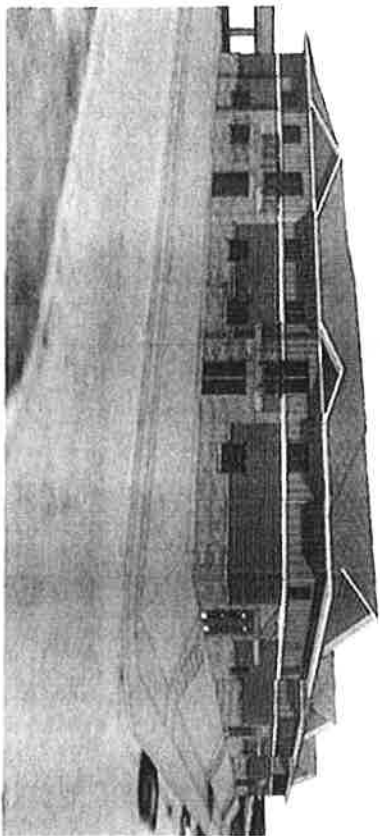
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230 0 179 On Shares

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Jane Macomber, Susanne Holt and 11 others

Top Comments

12 shares



Loretta Deal

Thought that was wet lands & not ever to be developed! Not good

Unlike Reply Message 3



It appears This is across the street...at the existing apartments, I will give a full update after the neighborhood meeting

Like Reply



There is no parking and the traffic is bad enough as it is, This is a residential neighborhood with homes, not a bunch of apartments. I do not support the zoning change

Unlike Reply Message 4 Yesterday at 3:15pm



This is right next to my house. The rundown apartment buildings there now were built in 1969. The two on Cody flood every year. They are not only an eyesore all the summer months are crazy, loud people in and out of units all hours of the night in some of the units. I can't wait for them to be gone. This seems like a major upgrade to what I have experienced the the past 16 years.

Unlike Reply Message 2 Yesterday at 11:00am Edited



I live just down the street also and I am definitely against it. We have enough traffic in our neighborhood all hours of the night!

Unlike Reply Message 2 Yesterday at 8:12am



I live just down the street from this proposed development and I am definitely against it!!!!

Unlike Reply Message 4 Yesterday at 11:00am Edited



How bout some nice town houses we dont need the bs amd crime that tends to come with this type of development .

Unlike Reply Message 4 Yesterday at 8:06am Edited



There is land west of Castle Rock that might be more suitable.

Unlike Reply Message 2 Yesterday at 11:00am Edited



We live in the neighborhood & am against this. As several people have stated the traffic is heavy on Cody & the surrounding streets. I am against

Unlike Reply Message 1 9 hrs



Set-up a phone bank to maximize participation! Get everyone's thoughts.

Unlike Reply Message 1 Yesterday at 3:15pm



And yet more traffic pouring onto Wicks and Lake Elmo.

Unlike Reply Message 3 Yesterday at 11:00am Edited



Adea Goselin...yikes!!

Unlike Reply Message 2 Yesterday at 11:00am Edited

Write a comment...



## City Zoning Commission

**Meeting Date:** 04/04/2017

**SUBJECT:** Zone Change 954 - 5400 Laurel Road

**THROUGH:** Wyeth Friday

**PRESENTED BY:** David Green

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### Information

#### REQUEST

**City Zone Change 954 – 5400 Laurel Rd** – A zone change request from Residential 7,000 (R-70) to Community Commercial (CC) on portion of Lot 1A and all of Lot 2, Block 3, Streeter Brothers Subdivision, a 15,000 square foot parcel of land. A pre-application neighborhood meeting was held on February 27, 2017 at GM Petroleum at 275 Daniel Street. Presented by Dave Green, Planner II

#### RECOMMENDATION

The Planning staff recommends approval and adoption of the proposed findings of the 10 criteria for Zone Change 954.

#### APPLICATION DATA

OWNER: C Store Properties

AGENT: Sanderson Stewart, Bryan Alexander

LEGAL DESCRIPTION: A portion of Lot 1A and all of Lot 2, Block 3, Streeter Brothers Subdivision

ADDRESS: 5400 Laurel Road

CURRENT ZONING: R-70

EXISTING LAND USE: Vacant / Parking lot

PROPOSED USE: Convenience store complex

SIZE OF PARCEL: 15,000 square feet, parcel proposed for zone change.

#### CONCURRENT APPLICATIONS

None.

#### APPLICABLE ZONING HISTORY

**Subject Property** - There have been no previous zoning actions on this parcel of land.

**Surrounding Property** - The City has reviewed two zone changes in this subdivision since the adoption of zoning in 1972. One zone change was to change from residential zoning to commercial zoning. The second one was proposed to change from residential to residential professional zoning and the application was withdrawn. There have been five other zoning actions in this subdivision, four variances and one special review.

#### SURROUNDING LAND USE & ZONING

NORTH: Zoning: CI  
Land Use: Laurel Road and Rail Road right of way

SOUTH: Zoning: R-70  
Land Use: Single family residences

EAST: Zoning: R-70  
Land Use: Single family

WEST: Zoning: Public: CI  
Land Use: Additional proposed convenience store property

## **BACKGROUND**

This is a zone change request to allow a use on land that has historically been a parking lot for a former truck stop on Laurel Road. These parcels have been zoned residential since zoning was enacted in Billings in 1972. This filing of Streeter Brothers subdivision was recorded in 1946. These two parcels have never developed as residential lots but have been used as parking for the former truck stop. In recent history the land has been an eye sore to the community with overgrown weeds, blowing dirt and the random abandoned vehicles. The current zoning, R-70, only allows single family and two-family dwellings. The proposed zoning, CC, would allow the construction of the proposed storage building with the fenced outdoor storage alongside the storage building.

The property is located on the northwest corner of the intersection off Marshall Drive and Laurel Road. Laurel Road is identified as a Principal Arterial and it is a state road. Traffic counts on this section of Laurel Road are approximately 7,000 vehicles a day. Marshall Drive is a local street so no traffic counts are taken on this street. This parcel of land is also on the corner of the only residential neighborhood in this part of Billings.

This subdivision is completely surrounded by commercial and industrial uses. Re-developing this land into a new neighborhood business would be a positive improvement to the area and a convenience to the residential neighborhood.

The Planning staff has reviewed the request and is recommending approval based on the proposed findings of the 10 criteria for zone changes. The zoning would make the proposed land more developable as a commercial use on the frontage of a state highway. The proposed zoning will stabilize the property value, allow for future investment in maintenance without risk to the property owners, provides a needed neighborhood convenience choice in this area of Billings, and is supported by the City's Infill Policy and 2016 Growth Policy. The guidelines for Essential Investments, Community Fabric, Prosperity and Strong Neighborhoods in the 2016 Growth Policy include: Public right of way landscaped to be more visually appealing, infrastructure in place, commercial areas that encourage more pedestrian activity, provide local jobs, safe and attractive neighborhoods that also provide essential services. The proposed zone change is supported by these guidelines. The proposed zoning would allow the property to be re-developed into a neighborhood convenience store and clean up a run down corner in Billings.

## **RECOMMENDATION**

Staff recommends approval and adoption of the findings of the 10 criteria for Zone Change 954.

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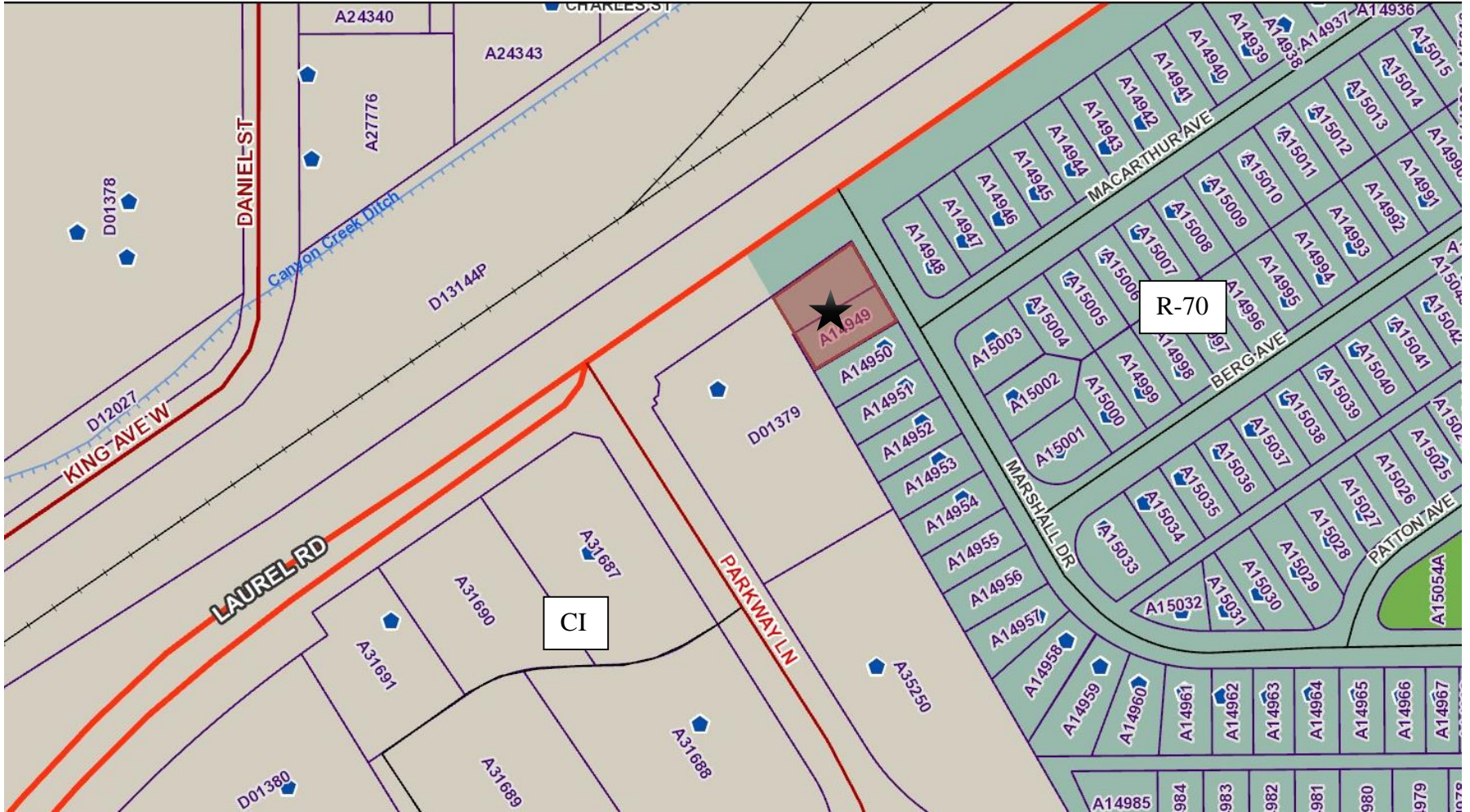
### **Attachments**

Zoning Map and Site Photos  
Proposed findings of the Criteria  
Pre-Application Info and Applicant Letter

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**Surrounding Zoning**  
Zone Change #954 – 5400 Laurel Road

**ZC 954 Zoning**



Subject Property ★





Subject Property – view from Laurel Road



View east from Laurel Road



View west on Laurel Road



View south east across subject property from Laurel Road



View east from Laurel Road

## Zone Change #954 – 5400 Laurel Road

Prior to any recommendation to the City Council, the Zoning Commission shall consider the following:

### 1. *Is the new zoning designed in accordance with the Growth Policy?*

The proposed zone change is consistent with the following guidelines of the 2016 Growth Policy:

- **Essential Investments:** Landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors. Infill development and development near existing City infrastructure may be the most cost effective. Neighborhoods that are safe and attractive and provide essential services are much desired;

The proposed zoning requires any development to install landscaping with a preference for it to be along the street frontage. New buildings, sidewalks, landscaping and fencing would make this area of Billings more visually appealing to residents and visitors. Infill development is the most cost effective since there is already infrastructure in place. Providing basic services near residential development is much desired and convenient to the local residential community.

- **Community Fabric:** Developed landscape areas in commercial areas encourage more pedestrian activity and vibrant commercial activity. Attractive streetscapes provide a pleasant and calming travel experience in urban and suburban neighborhoods. Cost-effective landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors.

The proposed zoning will require the developer to install new sidewalks and landscaping which will be more visually appealing to residents and visitors along Laurel Road. Providing green space and sidewalks for pedestrian movement in the area.

- **Prosperity:** A diversity of available jobs can ensure a strong Billings' economy. Successful businesses that provide local jobs benefit the community.

Rezoning the parcel will allow construction of the proposed C Store which will require employees and provide jobs that will be a benefit to the community.

- **Strong Neighborhoods:** Neighborhoods that are safe and attractive and provide essential services are much desired.

The proposed zoning will allow the construction of the proposed C Store and clean up a corner in Billings that has been underused and fallen into disrepair which attracts unwanted activity in the area. New development will provide needed services and be more attractive than what has been on this land for many years.

### 2. *Is the new zoning designed to secure from fire and other dangers?*

The new zoning requires minimum setbacks, open and landscaped areas and building separations. The new zoning, as do all zoning districts, provides adequate building separations and density limits to provide security from fire and other dangers.

### 3. *Whether the new zoning will promote public health, public safety and general welfare?*

Public health and public safety will be promoted by the proposed zoning. The current residential zoning of the parcel does not lend itself to a housing because it is on the edge of a major road, Laurel Road, and doesn't provide for enough separation from the traffic noises or safety concerns. This property has never been developed as residential but historically been used as a parking lot and fallen into disuse and neglect over the years. This has had a negative effect on

the surrounding properties and neighborhood. Re-zoning this property would allow redevelopment and will promote the public health, safety and general welfare of the area.

4. *Will the new zoning facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirement?*

Transportation: The proposed zoning will not have any effect on the existing transportation system.

Water and Sewer: The City provides water and sewer to the property. There will be no additional impacts to the system from the proposed zoning.

Schools and Parks: Schools and parks should not be affected by the proposed zoning.

Fire and Police: The subject property is served by city public safety services. The Police and Fire Departments had no concerns with the zone change.

5. *Will the new zoning provide adequate light and air?*

The proposed zoning provides for sufficient setbacks to allow for adequate separation between structures and adequate light and air.

6. *Will the new zoning effect motorized and non-motorized transportation?*

The new zoning will have no effect on transportation systems.

7. *Will the new zoning promote compatible urban growth?*

The new zoning does promote compatibility with urban growth. The proposed zoning will allow this parcel to re-develop into a neighborhood service area with a gas station and convenience store that will provide needed local services to the area and the use is compatible with the existing neighborhood.

8. *Does the new zoning consider the character of the district and the peculiar suitability of the property for particular uses?*

The proposed zoning does consider the character of the district and the suitability of the property for the proposed use. The proposed zoning will allow the re-development of the land as a commercial use and improve the area with new buildings, landscaping and separation from the major road, Laurel Road, for the residential uses that it abuts.

9. *Will the new zoning conserve the value of buildings?*

The property is currently a vacant lot where a former truck stop stood. The proposed developed of a convenience store and gas station with landscape, new sidewalks, buildings will most likely improve values in the neighborhood. Approval of the zone change will conserve the value of the existing buildings. The value of existing surrounding buildings and the parcel will be improved by the proposed zoning.

10. *Will the new zoning encourage the most appropriate use of land throughout the City of Billings?*

The proposed zoning will allow re-development of the land to a new gas station convenience store. Residential development on this corner is not the most appropriate use of the land at this location. Commercial development to buffer residential from high traffic on Laurel Road is the best use of the land.

Application and pre-application meeting notes  
Zone Change #954 – 5400 Laurel Road

**C-Store Properties, LLC.**  
ZONE CHANGE APPLICATION FROM RESIDENTIAL 7000  
TO COMMUNITY COMMERCIAL

**Statement of Proposal**

The owner, C-Store Properties, LLC., is seeking a zone change for a portion of Lot 1A and all of Lot 2, Block 3 of Streeter Brothers Subdivision. The property is located on Laurel Road between Parkway Lane and Marshall Drive. The overall property is approximately 80,000 square feet in size, while the area proposed for zone change is limited to approximately 15,000 square feet.

The property is currently located inside the City Limits of Billings. The existing zoning of the majority of the property is Controlled Industrial; however, a small portion of the site is Residential 7,000; the applicant is requesting a zone change from Residential 7,000 to Community Commercial in order to develop the property for a new fueling station and convenience store.

**Accompanying Responses to Questions in Zoning Application Form**

*1A. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?*

**ESSENTIAL INVESTMENTS**

*Public transit and commercial air service are critical to ensure access to and around the City.*

The MET transit system has an existing stop with a bench at the intersection of Laurel Road and Marshall Drive. It is desired to improve the bus stop location to provide a safer and more pleasant location for bus passengers by landscaping this area to provide shade and green space. Additionally, the bus stop will provide convenient access to the convenience store for purchase of groceries and other necessities.

*Planning and construction of safe and affordable interconnected sidewalks and trails are important to the economy and livability of Billings.*

Laurel Road is largely deficient with respect to pedestrian connectivity. The site re-development will bridge a current gap along Laurel Road between Parkway Lane and Marshall Drive as well as from Laurel Road to the existing sidewalk along Parkway Lane by providing new sidewalk along road frontages.

*Landscaping of public rights-of-way and entryways makes Billings more visually appealing to residents and visitors.*

Laurel Road is an important entryway into the City Billings, which currently has limited visual appeal. The proposed re-development currently contemplated will be a fueling station and convenience store, which will include landscape improvements along the public rights-of-way and within the site.

*Infill development and development near existing City infrastructure may be the most cost effective.*

The proposed re-development is located in the location of the former Parkway West Truck Stop. The truck stop has recently been demolished and cleared for re-development. Existing 8-inch water and 10-inch and 8-inch sewer are present in Laurel Road and Marshall Drive.

*Neighborhoods that are safe and attractive and provide essential services are much desired.*

The proposed re-development currently contemplated will be a fueling station and convenience store, which will include landscape improvements along the public rights-of-way and within the site. The development will provide essentials such as fuel for vehicles and other items commonly found in convenience stores such as groceries. Access to these services will be within walking distance from the adjacent residents in the Streeter Brothers Subdivision as well as be available to the thousands of vehicles that travel Laurel Road daily.

## **COMMUNITY FABRIC**

*Developed landscape areas in commercial areas encourages more pedestrian activity and vibrant commercial activity.*

The re-development of the property will improve the streetscape by adding boulevard sidewalk and landscape along the site roadway frontages. Sidewalk improvements will encourage more pedestrian activity from the adjacent neighborhood; however, the site is fairly isolated from pedestrian sidewalks and pathways to the west.

*Attractive streetscapes provide a pleasant and calming travel experience in urban and suburban neighborhoods.*

The re-development of the property will improve the streetscape by adding boulevard sidewalk and landscape along the site roadway frontages. The development, in concept, is being planned to include trees and other landscape features along the roads for a pleasant and calming travel experience. It should be noted that the frontage of Laurel Road is largely zoned Controlled

Industrial, which includes the railroad on the north side; existing landscape is very limited along the corridor.

*Planning and construction of interconnected sidewalks and trails are important to the livability of Billings.*

The site re-development will have new sidewalks along the public rights-of-way. Currently Laurel Road has limited pedestrian facilities; however, this project will interconnect the recently-constructed walk along Laurel Road to the west of Parkway Lane to the existing residential neighborhood.

### ***MOBILITY AND ACCESS (TRANSPORTATION CHOICES IN PLACES WHERE GOODS AND SERVICES ARE ACCESSIBLE TO ALL)***

*Connecting people to places with transportation choices is vital to the well-being of Billings' residents, businesses and visitors.*

In addition to vehicular transportation access to the site, the site re-development will have sidewalks for access from the adjacent residential properties. The MET transit system has an existing stop with a bench at the intersection of Laurel Road and Marshall Drive. It is desired to improve the bus stop location to provide a safer and more pleasant location for bus passengers by landscaping this area to provide shade and green space. Additionally, the bus stop will provide convenient access to the convenience store for purchase of groceries and other necessities.

*Affordable public transit is much desired.*

The MET transit system is an existing affordable system of public transit in Billings, which has an existing stop with a bench at the intersection of Laurel Road and Marshall Drive. It is desired to improve the bus stop location to provide a safer and more pleasant location for bus passengers by landscaping this area to provide shade adjacent green space. Additionally, the bus stop will provide convenient access to the convenience store for purchase of groceries and other necessities.

*Planning and construction of interconnected sidewalks and trails are important to the livability of Billings.*

As discussed previously, Laurel Road is largely deficient with respect to pedestrian connectivity. The site re-development will bridge a current gap along Laurel Road between Parkway Lane and Marshall Drive as well as from Laurel Road to the existing sidewalk along Parkway Lane.

*1B. Explain your need for the intended zone change and why the property cannot be used under the existing zoning. Explain how the new zoning will fit in with the existing zoning and land uses in the immediate area.*

The property currently is zoned Residential 7,000; however, it has never been used for residential purposes. The land under the previous development was paved and utilized for parking of semi-trailers. The area proposed for zone change is approximately 15,000 square feet and is located in close proximity to Laurel Road, which is a high-volume 4-lane roadway with a posted speed of 45 miles per hour and is not desirable for residential use. Under the current zoning, parking associated with the proposed convenience store could be permitted through a Special Review. The owner desires to make the zoning consistent with the proposed use such that the layout of the development be dictated by functionality and not by locating components of the site by the different zoning classifications within.

The proposed zoning of Community Commercial is more restrictive than the Controlled Industrial zone that comprises a majority of the existing site, but still allows for the proposed convenience store and the possibility of a car wash. Existing zoning adjacent to the site is primarily Controlled Industrial other than the Residential 7,000 zone of the Streeter Brothers Subdivision to the east.

## MEETING MINUTES

<b>PROJECT: Proposed Zone Change – Lot 1A &amp; 2, Block 3 Streeter Brothers Sub</b>			
Project No: 00011.07			
Meeting Location: 275 Daniel Street		Meeting Date: 2/27/17 6:00 P.M.	
Meeting Subject: Neighborhood Meeting		Prepared by: Bryan Alexander	
Attending:			
Dennis Whitmore	Owner		406-861-1112
Bryan Alexander	Sanderson Stewart		406-656-5255
Dulcy McGraw	Homeowner	38 Macarthur	406-855-4031
Date of Issue: 3/2/17			

Minutes:

- Bryan Alexander presented an overview of the anticipated Application for zone change, Zoning Commission, and City Council’s action.
- Described adjacent zoning and land uses near the site.
- Introduced developer Dennis Whitmore or C-Store Properties who was in attendance.
- Discussed developer’s plan to construct a new Conomart Convenience Store and gas station. No truck stop.
- Owner proposing Community Commercial zone to allow flexibility for convenience store and a potential for a car wash. Majority of the site is currently Controlled Industrial except portion near Marshall Drive.
- Explained uses relative to fuel stations for various commercial zones, setbacks, lot coverage, and height restrictions.
- Explained requirement for site-obscuring fence for commercial or industrial buffering adjacent to the residential properties. A block wall is being considered.
- Showed aerial images and Google Street View of the site prior to the Parkway West Truck Stop / repair shop was demolished.

- Dulcy: When truck stop was active, trucks would try to access to Marshall Drive, which was problematic. Bollards were placed to prevent that.
- Presented concept sketch of how the site could be laid out. Concept uses existing approaches, but alternate locations may be researched later on.
- Dulcy: Speed along Laurel Road is a concern and a number of crashes at Laurel & Parkway.
- Explained that parking would be allowed in the existing R-7000 zone by Special Review; however, the owner feels the better way to approach it is to make the zone reflect the proposed use.
- Provided example images of the existing local Conomart Stores on S. 27<sup>th</sup>/State and Southgate Drive/King Avenue East.

#### Questions/Discussion

- Proposed store, would it be similar to existing stores?
  - Yes, proposed to have similar level of landscaping and similar building materials, roofs, etc.
- Explained parking layout and possible location for underground storage tank and dumpster. Noted that it is still a high-level concept.
- Will bus stop still be able to be used? Used quite a bit for people going to work.
  - Yes, it may be an opportunity to make the bus stop better and could benefit both bus travelers and the convenience store.
- Discussed desire to provide a boulevard walk if right-of-way is sufficient.
- Discussed clear vision zone requirements as safety is a concern with speeds.

#### **Synopsis of Meeting Results**

The meeting conducted on February 27, 2017 was well received by the one individual that attended. Dulcy was in favor of the proposed convenience store and did not have any concern about the proposed zone change.





February 2017

**Streeter Brothers Conceptual Site Plan**  
Billings, Montana

SANDERSON STEWART 



Site prior to demolition of Truck Stop.  
Intersection of Laurel Road and  
Marshall Drive

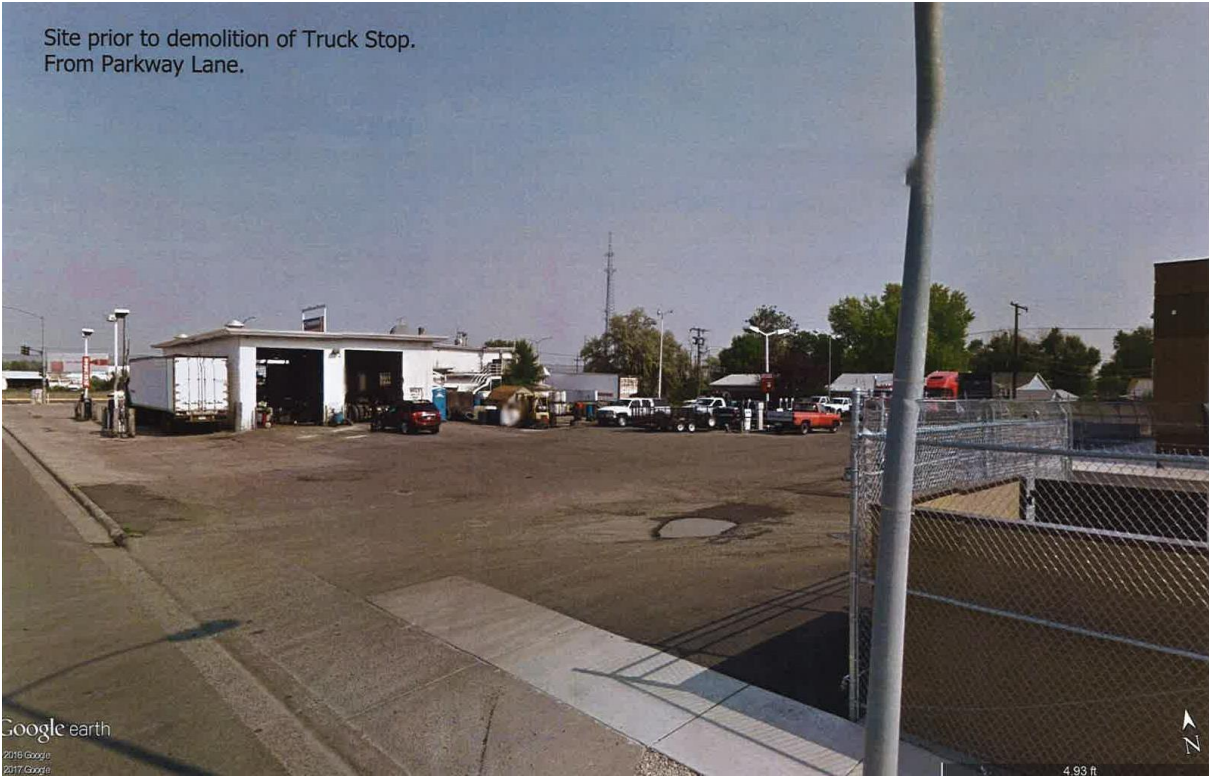
Google earth  
2016 Google  
2017 Google

4.93 ft

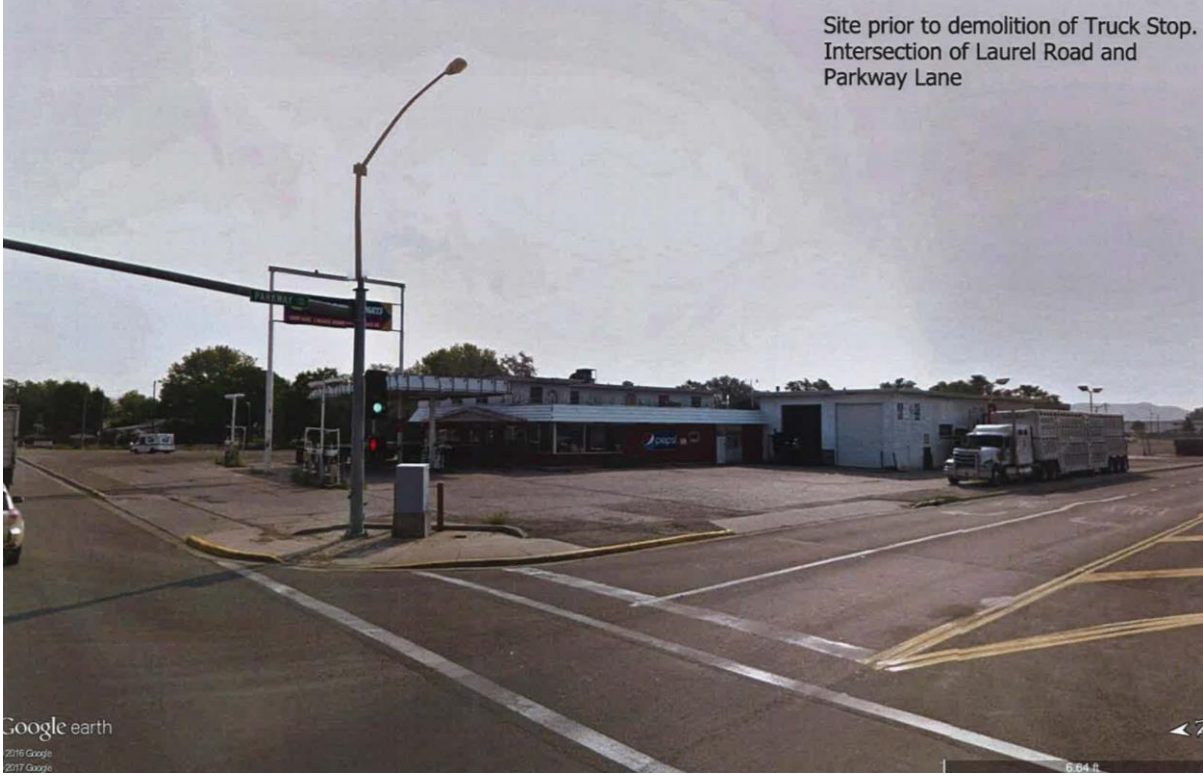
Site prior to demolition of Truck Stop.  
From Marshall Drive



Site prior to demolition of Truck Stop.  
From Parkway Lane.



Site prior to demolition of Truck Stop.  
Intersection of Laurel Road and  
Parkway Lane





## City Zoning Commission

**Meeting Date:** 04/04/2017

**SUBJECT:** Special Review 955 - 301 - 317 Covert Lane and 1739 – 1747 Cody Dr

**THROUGH:** Wyeth Friday

**PRESENTED BY:** David Green

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### Information

#### REQUEST

**City Special Review 955 – 301 - 317 Covert Lane and 1739 – 1747 Cody Dr – Three 10-unit apartment buildings** – A special review request to demolish three, 4-plex apartments and construct three, 10-unit apartment buildings in a proposed R-60 zone, on Lots 5, 6, 7 & 8, Block 7, Happy Hollow Subdivision, a 1.36 acre parcel of land. Presented by Nicole Cromwell, Zoning Coordinator.

#### RECOMMENDATION

Planning staff recommends conditional approval of 3, 6-unit buildings and adoption of the findings of the 3 criteria for Special Review 955.

#### APPLICATION DATA

OWNER: McDonald Lane Holdings, LLC

AGENT: Sanderson Stewart, Bryan Alexander

LEGAL DESCRIPTION: Lots 5-8, Block 7, Happy Hollow Subdivision

ADDRESS: 301 through 317 Covert Lane and 1739 through 1747 Cody Drive

CURRENT ZONING: Residential 7000, proposed Residential 6000

EXISTING LAND USE: 3, 4-unit apartment buildings

PROPOSED USE: 3, 10-unit apartments buildings

SIZE OF PARCEL: 1.36 acres total of the 4 lots

#### CONCURRENT APPLICATIONS

Zone Change 955 to change the zoning from Residential 7000 to Residential 6000.

#### APPLICABLE ZONING HISTORY

**Subject Property** - There is a concurrent Zone Change with this special review to change the existing zoning from Residential 7000 to Residential 6000.

**Surrounding Property** - Property to the southwest did go through a special review for a church in 1998. There have been 3 zone change request within this subdivision, 2 were granted 1 was denied. There has been 1 variance request that was granted. There has been a minimum of zoning activity in this area that is predominantly residential in nature.

#### SURROUNDING LAND USE & ZONING

NORTH: Zoning: R-70  
Land Use: Single family homes

SOUTH: Zoning: R-70  
Land Use: Single family homes and duplexes

EAST: Zoning: R-70  
Land Use: Single family homes

## BACKGROUND

This is a special review request to demolish three 4-plex apartments and construct three 10-unit apartment buildings in a proposed R-60 zone, on Lots 5, 6, 7 & 8, Block 7, Happy Hollow Subdivision. The site is located on the northeast corner of the intersection of Covert Lane and Cody Drive. The existing buildings appear to have been built on the land in 1965, 1966 and 1967 before current zoning was adopted. The special review is required whenever 3 units per building or more are proposed on a single lot in Residential 6000 zoning. There is residential zoning to the north, east and south of the subject property, with public zoning to the west. The overall proposed site plan shows 3, 10-unit residential buildings on the subject properties with parking provided on the back of the properties. It is the applicants intent to relocate lot lines to have a final lot count of 3 lots instead of 4.

The surrounding neighborhoods to the northeast and west are developed. Most of the surrounding property is single family residential development with a few exceptions along Covert Lane. There are 3 duplexes on this block of Covert Lane. There are some duplexes along Lake Elmo in the near neighborhood and one triplex. Farther out in the greater neighborhood, staff did find a 5-plex west of Walgreens, the one on Wicks and Main, and there are 4-plexes on Kelby Lane. Staff was not able to find any buildings that are the size proposed, 10-units, in the area. Mostly duplexes are scattered throughout the larger neighborhood. This is an older neighborhood with many houses being built in the 1960's so it is an established area of the Billings Heights. The existing buildings are showing their age and are in need of updating or replacement to provide better housing options in the area.

While Residential 6000 zoning does allow for multi-plexes, and there is enough land to have 10-unit buildings on the properties, staff finds 10-unit buildings are too much for the neighborhood. The site plan shows the three buildings with the required parking in the back off the alley. There is minimum space between buildings and very little green space for any type of outdoor activity. Those who live in the apartments would be left with minimal outdoor space to have outdoor gatherings with friends or family. There is no outdoor space of any size for small children to play. There is parkland to the west that is undeveloped and would not be safe for smaller children to play with limited supervision. At some times in the year, the undeveloped park can also have standing water in it due to stormwater. Staff could not find any large multiplexes in the greater neighborhood with the exception of one 5-plex on Lake Elmo Road to the north. Staff believes this request for 3, 10-unit buildings is too many units in one concentrated area given the surrounding neighborhood densities and housing types. It places a burden on the land and neighborhood without providing outdoor amenities for those living in the buildings. This would also increase traffic in the area going from 3, 4-unit buildings to 3, 10-unit buildings, more than doubling the number of potential vehicles in the area.

The Planning Division has reviewed this application and is recommending conditional approval of three, 6-unit buildings. Before a recommendation of approval or conditional approval can be made, each special review request must demonstrate conformance with three primary criteria: 1) The application complies with all parts of the Unified Zoning Regulations, 2) The application is consistent with the objectives and purposes of the Unified Zoning Regulations and the 2016 Growth Policy, and 3) the application is compatible with surrounding land uses and is otherwise screened and separated from adjacent land to minimize adverse impacts.

This application conforms to the first criteria in so far that the zoning regulations adopted by the City Council have designated all R-60 zoning districts can have multi-plex buildings as long as they go through the special review process for buildings with 3 or more units per building. There are requirements for landscaping and site design with the 3-units per building or larger.

The application meets criteria from the second requirement as it is consistent with some of the objectives of the 2016 Growth Policy:

- **Essential Investments:** Infill development and development near existing City infrastructure may be the most cost effective.

The proposed special review will promote development of a residential parcel in a residential neighborhood and has easy access to City services and infrastructure. This will provide an additional housing choices to residents

within the neighborhood and throughout Billings Heights.

- **Strong Neighborhoods:** Zoning regulations that allow a mixture of housing types provide housing options for all age groups and income levels. Implementation of the Infill Policy is important to encourage development of underutilized properties

The proposed development will provide housing choices for residents of Billings in an established neighborhood and allow for better use of the property. Conditions of approval will be proposed to ensure this development does not impact neighbors with excessive noise, light and other intrusions.

- **Home Base:** A mix of housing types that meet the needs of a diverse population is important.

The proposed special review will support a new housing option in this established neighborhood.

The application also meets the third criteria, staff has found, if the number of units is three 6-unit buildings, in that the lower number of units will be more compatible with surrounding land uses, density, and neighborhood. This site was originally developed in the mid 1960's and is in need of major remodeling or replacement. The applicant is proposing replacement with three 10-unit buildings. Staff finds this building unit size would increase the traffic dramatically in the area, put a burden on open space by not providing open space on site, and create building mass in the neighborhood that would be out of place with the single and duplex units in the immediate area. With a reduction of units to three 6-unit buildings it would lower the amount of additional traffic, would provide some options on the properties for open space for residents to have outdoor activities and play space for smaller children, and result in buildings that fit better with the surrounding residential buildings. The conditions recommended with the special review should mitigate impacts on the site and the surrounding properties.

## **RECOMMENDATION**

The Planning Division recommends conditional approval.

## **PROPOSED CONDITIONS**

1. The special review approval is limited to Lots 5, 6, 7 & 8, Block 7, Happy Hollow Subdivision generally located at the northeast corner of the intersection of Covert Lane and Cody Drive.
2. The special review is for the construction of apartment buildings with associated open space and parking for the building residents. No other use is intended or implied.
3. There shall only be three, 6-unit buildings constructed on the subject site with accompanying minimum required parking for the building residents.
4. The developer will meet the minimum required landscaping according to code. In addition, the developer will plant a street tree every 40 feet along both street frontages of Covert Lane and Cody Drive, in the boulevard between the curb and sidewalk. This landscaping will help to reduce the impact of the larger apartment structures along the street frontage and help the new development fit into the neighborhood. Trees not allowed to be planted are any tree from the genus Populus, Salix or Ulmus.
5. The proposed development shall comply with all other limitations of Section 27-613 of the Unified Zoning Regulations concerning special review uses, and all other City of Billings, regulations and ordinances that apply.

**\*\*NOTE\*\*** Approval of this Special Review does not constitute approval of a building permit, sign permit or fence permit. Compliance with all applicable local codes will be reviewed at the building permit level. This application is for a Special Review as noted above and no other request is being considered with this application. The Planning Division points out that the use and development of the property must be in accordance with the submitted site plan.

## **Zoning Commission Action**

The City Zoning Commission shall make a recommendation to the City Council to:

1. Deny the application for a special review use.
2. Grant the application for a special review use.
3. Conditionally grant the application for a special review use.
4. Delay action on the application for a period not to exceed thirty (30) days.
5. Give reasons for the recommendation.

Before approving a special review use, the Zoning Commission shall find that the contemplated use:

1. Complies with all requirements of this Article (27-1500);
2. Is consistent with the objectives and purposes of Chapter 27 and the Comprehensive Plan;
3. Is compatible with surrounding land uses or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further the Zoning Commission shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Street and road capacity;
2. Ingress and egress to adjoining streets;
3. Off-street parking;
4. Fencing, screening and landscaping;
5. Building bulk and location;
6. Usable open space;
7. Signs and lighting; and/or
8. Noise, vibration, air pollution and similar environmental influences.

### **RECOMMENDATION**

Staff recommends conditional approval of 3, 6-unit apartment buildings and adoption of the findings of the 3 criteria for Special Review 955.

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### **Attachments**

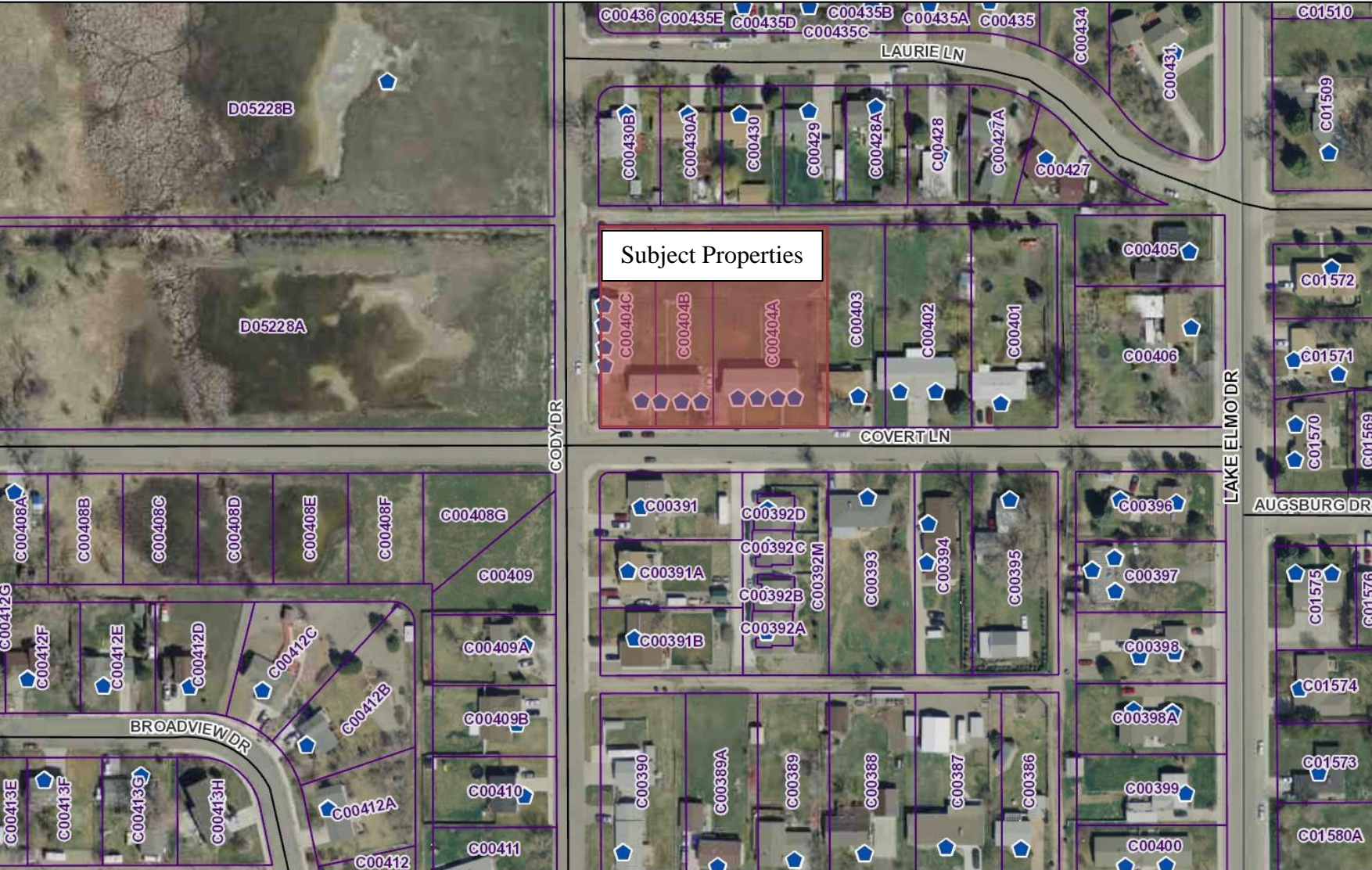
Zoning Map and Site Photos  
Application letter and Site Plan

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**Surrounding Zoning**  
Special Review #955 – 315 Covert Lane  
ZC 955 SR 955



# ZC 955 SR 955





Subject Property



View east along Covert Lane



View west on Covert Lane



View south east across Covert Lane



View south across Covert Lane



View north along Cody Drive



View west across Cody Drive



View south along Cody Drive



View south from alley behind 4-unit apartment buildings

# APPLICATION FORM

CITY SPECIAL REVIEW

Billings Special Review#

955

- Project #

P2-17-00035

The undersigned as owner(s) of the following described property hereby request a Special Review as outlined in the City of Billings Zoning Regulations.

Present Zoning: Residential - 7000

Special Review Requested: 1.36 acres will be converted from Residential - 7000 to Residential - 6000

The properties would be re-developed with three 10-plex apartment buildings.

TAX ID# C00404A, C00404B, C00404C CITY ELECTION WARD # 2 (Billings)

Legal Description of Property: Happy Hollow Subdivision, Lots 5-8, Block 7,  
Billings, Montana

Address or General Location (If unknown, contact City Engineering):  
301 through 317 Covert Ln and 1739 through 1747 Cody Dr, Billings, Montana

Size of Parcel (Area & Dimensions): Lot 5 - 0.34 ac, Lot 6 - 0.34 ac, Lot 7 - 0.34 ac, Lot 8 - 0.34 ac  
Lots 5, 6 and 7 - 229'x65', Lot 8 - 229'x64'

Present Land-Use: Residential

Covenants or Deed Restrictions on Property: Yes \_\_\_\_\_ No X

If yes, please attach to application



\*\*\* Additional information may be required as determined by the Zoning Coordinator in order to fully evaluate the application.

Owner(s): McDonald Land Holdings, LLC

(Recorded Owner)

1349 Galleria Drive, Suite 200 Henderson, Nevada 89014-8624

(Address)

(406) 690-6394

harbourtownemt@gmail.com

(Phone Number)

(email)

Agent(s): Bryan Alexander

(Name)

1300 N Transtech Way

Billings, Montana 59102

(Address) (406) 869-3343

balexander@sandersonstewart.com

(Phone Number)

(Email)

I understand that the filing fee accompanying this application is not refundable, that it pays for the cost of processing, and that the fee does not constitute a payment for a Special Review. Also, I attest that all the information presented herein is factual and correct.

Signature: \_\_\_\_\_

Date: 03/03/17

(Recorded Owner)

*SPECIAL REVIEW ONLY BEYOND THIS POINT*

*1C. How will the public interest be served if this application is approved?*

The existing property is in very poor condition; re-development would improve the appearance and safety for tenants of the property. The proposed development will create more living space and provide rental housing for all age groups, individuals and families. The property will be landscaped and will add to the aesthetic value of the community. The property will also be elevated from its current state, which will significantly reduce the risk of flooding. The existing buildings sit very near the street elevation and, in large runoff events, are prone to flooding.

*1D. Prepare a written statement addressing what is intended to be done with the property, including new construction or change in the use of the property, and why the special review is being sought.*

The four lots, Lots 5-8, will remain residential, however, they are proposed to have the zoning changed from Residential-7000 to Residential-6000 to allow for the construction of 10-plex apartment buildings. The four lots will have lot line adjustments to create three lots out of the four. All of the existing structures and hardscape is proposed to be demolished. The existing public utility services will be abandoned. New sanitary sewer and water services will be installed to serve the individual buildings. Surface and/or underground storm water conveyances will be installed as well. These utilities will be tied into the public utilities in the public right of way. The underground piping for the Holling Drain that runs through the site will be re-routed, as approved by the district, to skirt the edge of the property as to not cause any interference with installation of new buildings and utilities for the site. The south portion of the site is to be elevated from its current position, as its current elevation on the southwest corner is prone to flooding in large runoff events.

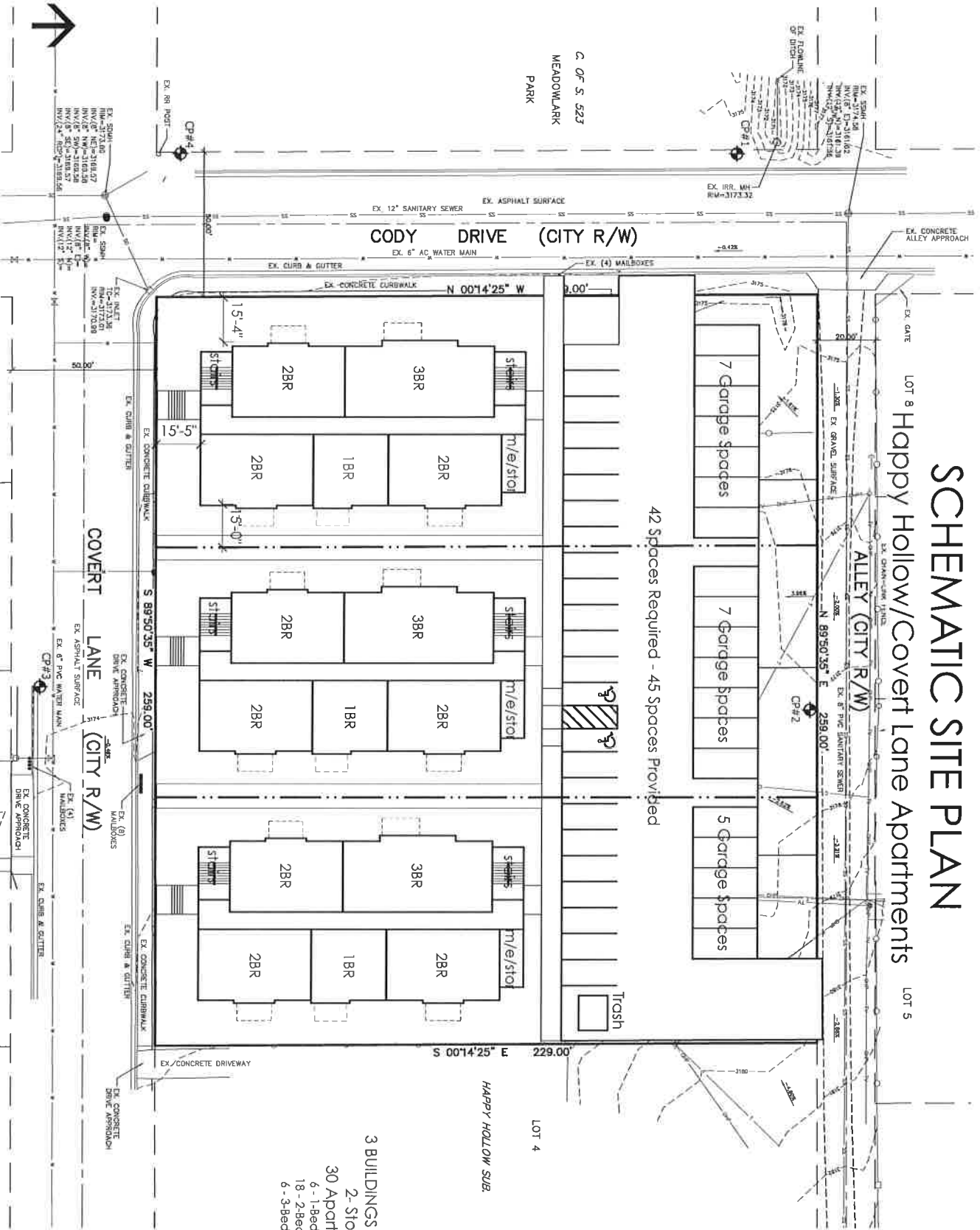
Each of the three, newly created lots are proposed to have a 10-plex constructed on them. The current entrance on the south side of the properties, on Covert Lane, is to be demolished and a new entrance is to be constructed on the west side of the properties on Cody Drive. A new parking lot on site will be constructed with access to Cody Drive as well as the alley to the north.



# SCHEMATIC SITE PLAN

LOT 8 Happy Hollow/Coverit Lane Apartments

LOT 5



42 Spaces Required - 45 Spaces Provided

- 3 BUILDINGS @ 10 Units
- 2- Stories
- 30 Apartments
- 6 - 1-Bedroom
- 18 - 2-Bedroom
- 6 - 3-Bedroom



1/6/17